

JOURNAL OF THE HOUSE

OF THE

STATE OF VERMONT

ADJOURNED SESSION, 2012

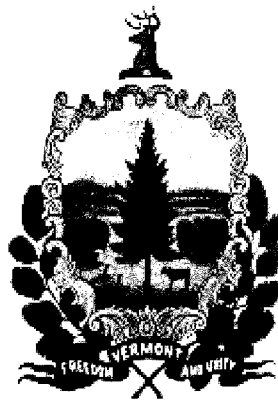
VOLUME 1

January 3, 2012 through April 26, 2012

(For Appendices A & B

General Index and

Joint Assemblies, see Volume 3)



Published by Authority

STATE OF VERMONT

BUILDINGS AND GENERAL SERVICES,

MIDDLESEX, VERMONT

Compiled and Edited by:

Donald G. Milne, Clerk of the House and Cathleen M. Cameron, Journal Clerk

Journal of the House

of the

State of Vermont

Adjourned Session, 2012

Tuesday, January 3, 2012

At ten o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by students from the Maple Street School in Manchester, Vermont.

Pledge of Allegiance

Page Gretchen Wright of Jericho led the House in the Pledge of Allegiance.

Communication from Governor

“July 21, 2011

The Honorable Shapleigh Smith, Jr.
Speaker of the House
115 State Street, Drawer 33
Montpelier, Vermont 05633

Dear Speaker Smith,

I have the honor to inform you that I have appointed Teo Erik Zagar to serve in the General Assembly representing House District Windsor 6-1, formerly held by Representative Mark Mitchell.

Sincerely,
/s/ Peter Shumlin
Governor

PS/ss

Cc: Jim Condos, Secretary of State
Donald G. Milne, Clerk of the House”

Communication from Governor

“November 9, 2011

The Honorable Shapleigh Smith, Jr.

Speaker of the House
115 State Street, Drawer 33
Montpelier, Vermont 05633
Dear Speaker Smith,

I have the honor to inform you that I have appointed Jean O'Sullivan to serve in the General Assembly representing House District Chittenden 3-2, formerly held by Representative Mark Larson.

Sincerely,
/s/ Peter Shumlin
Governor"

PS/ss

Cc: Jim Condos, Secretary of State
Donald Milne, Clerk of the House"

New Member Seated

Rep. Teo Zagar of Barnard, the newly appointed member, having taken and subscribed the oath administered by the Clerk, as required by the Constitution and laws of the State, was conducted to his seat by the Doorkeeper.

Oath Administered to Jean O'Sullivan

The Speaker directed the Doorkeeper to conduct Jean O'Sullivan the appointed member from Burlington, to the bar of the House where she took the subscribed oath, administered by the Clerk, as required by the Constitution and laws of the State.

New Member Seated

Rep. Jean O'Sullivan, the newly appointed member, having taken and subscribed the oath administered by the Clerk, as required by the Constitution and laws of the State, was conducted to her seat by the Doorkeeper.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 461

By the committee on Ways and Means,

An act relating to the reimbursement of statewide education property taxes that were abated due to flood damage;

Under the rule, placed on the Calendar for notice.

H. 462

By Rep. Potter of Clarendon,

House bill, entitled

An act relating to authorizing hunting licenses for persons with a visual limitation;

To the committee on Fish, Wildlife & Water Resources.

H. 463

By Rep. Consejo of Sheldon,

House bill, entitled

An act relating to emergency medical personnel continuing education requirements;

To the committee on Human Services.

H. 464

By Reps. Klein of East Montpelier and Peltz of Woodbury,

House bill, entitled

An act relating to hydraulic fracturing wells for natural gas and oil production;

To the committee on Fish, Wildlife & Water Resources.

H. 465

By Reps. Mook of Bennington and Campion of Bennington,

House bill, entitled

An act relating to bail in cases of lewd and lascivious conduct with a child and to the inclusion of headmasters of independent schools as mandatory reporters of child abuse and neglect;

To the committee on Judiciary.

H. 466

By Rep. Botzow of Pownal,

House bill, entitled

An act relating to river management and fluvial erosion hazard planning;

To the committee on Fish, Wildlife & Water Resources.

H. 467

By Rep. Peltz of Woodbury,

House bill, entitled

An act relating to limited liability for a landowner who permits a person to enter the owner's land for recreational use;

To the committee on Judiciary.

H. 468

By Rep. Klein of East Montpelier,

House bill, entitled

An act relating to a renewable portfolio standard and the Sustainably Priced Energy Enterprise Development Program;

To the committee on Natural Resources and Energy.

H. 469

By Rep. Shaw of Pittsford,

House bill, entitled

An act relating to potable water supply and wastewater system isolation distances;

To the committee on Fish, Wildlife & Water Resources.

H. 470

By Rep. Shaw of Pittsford,

House bill, entitled

An act relating to discontinuance of a public water system;

To the committee on Government Operations.

H. 471

By Rep. Ancel of Calais,

House bill, entitled

An act relating to child motorcycle passengers;

To the committee on Transportation.

H. 472

By Reps. Klein of East Montpelier and Ram of Burlington,

House bill, entitled

An act relating to the definition of natural persons;

To the committee on Judiciary.

H. 473

By Reps. Martin of Springfield and Emmons of Springfield,

House bill, entitled

An act relating to the confidentiality of pension records of a retired state employee;

To the committee on Government Operations.

H. 474

By Rep. Klein of East Montpelier,

House bill, entitled

An act relating to authorizing public high school choice and adjusting tuition payments to regional technical centers;

To the committee on Education.

H. 475

By Rep. Klein of East Montpelier,

House bill, entitled

An act relating to net metering and definitions of capacity;

To the committee on Natural Resources and Energy.

H. 476

By Rep. Klein of East Montpelier,

House bill, entitled

An act relating to transparency in billing for electric power;

To the committee on Natural Resources and Energy.

Bill Referred to Committee on Appropriations

H. 461

House bill, entitled

An act relating to the reimbursement of statewide education property taxes that were abated due to flood damage

Carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Committee Appointments

The Speaker appointed **Rep. Zagar of Barnard** to the committee on Agriculture, **Rep. O'Sullivan of Burlington** to the committee on General, Housing and Military Affairs, **Reps. Woodward of Johnson and Komline of Dorset** to the committee on Health Care, **Rep. Ram of Burlington** to the committee on Human Services, **Rep. Strong of Albany** to the committee on Judiciary and **Rep. Malcolm of Pawlet** to the committee on Natural Resources and Energy.

Action on Bill Postponed

S. 92

House bill, entitled

An act relating to the protection of students' health by requiring the use of safe cleaning products in schools

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Donovan of Burlington**, action on the bill was postponed until the next legislative day.

Adjournment

At ten o'clock and forty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, January 4, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Peter Plagge of the United Church of Christ, Waterbury, VT.

Message from the Senate No. 1

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 33. Joint resolution to provide for a Joint Assembly to receive the State-of-the-State message from the Governor.

J.R.S. 34. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

J.R.S. 35. Joint resolution relating to Town Meeting adjournment.

J.R.S. 36. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Senate has on its part considered the Governor's veto of a Senate bill of the following title:

S. 77. An act relating to water testing of private wells.

And has sustained such veto.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 477

By Rep. Poirier of Barre City,

House bill, entitled

An act relating to compensability of mental injuries under the workers' compensation statutes;

To the committee on Commerce and Economic Development.

H. 478

By Rep. Branagan of Georgia,

House bill, entitled

An act relating to an appropriation for water quality staff of the agency of agriculture, food and markets;

To the committee on Fish, Wildlife & Water Resources.

H. 479

By Reps. Klein of East Montpelier and Clarkson of Woodstock,

House bill, entitled

An act relating to a tax on the storage of spent nuclear fuel and a tax to fund postclosure activities at nuclear generating plants;

To the committee on Natural Resources and Energy.

H. 480

By Rep. Deen of Westminster,

House bill, entitled

An act relating to salvage yard fees;

To the committee on Fish, Wildlife & Water Resources.

H. 481

By Rep. Poirier of Barre City,

House bill, entitled

An act relating to a study of payday lending in Vermont;

To the committee on Commerce and Economic Development.

H. 482

By Rep. Deen of Westminster,

House bill, entitled

An act relating to stream alteration;

To the committee on Fish, Wildlife & Water Resources.

Joint Resolution Adopted in Concurrence

J.R.S. 33

By Senator Campbell,

J.R.S. 33. Joint resolution to provide for a Joint Assembly to receive the State-of-the-State message from the Governor.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, January 5, 2012, at two o'clock in the afternoon to receive the State-of-the-State message from the Governor.

Was taken up read and adopted in concurrence.

Joint Resolution Adopted in Concurrence

J.R.S. 34

By Senator Campbell,

J.R.S. 34. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, January 12, 2012, at two o'clock in the afternoon to receive the budget message of the Governor.

Was taken up read and adopted in concurrence.

Joint Resolution Placed on Calendar**J.R.S. 35**

By Senator Campbell,

J.R.S. 35. Joint resolution relating to Town Meeting adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 2, 2012, or Saturday, March 3, 2012 it be to meet again no later than Tuesday, March 13, 2012

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Joint Resolution Adopted in Concurrence**J.R.S. 36**

By Senators Carris and Mullin,

J.R.S. 36. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 6, 2012, it be to meet again no later than Tuesday, January 10, 2012.

Was taken up read and adopted in concurrence.

**Committee Relieved of Consideration
and Bill Committed to Other Committee****S. 95**

Rep. Turner of Milton moved that the committee on Rules be relieved of House bill, entitled

An act relating to exemptions for newspaper deliverers from the unemployment statutes; relieving an employer's experience rating record of charges; studying the receipt of unemployment compensation between academic terms; allowing school employees to be paid wages over the course of a year; and requiring employers to furnish required work apparel

And that the bill be committed to the committee on General, Housing and Military Affairs, which was agreed to.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

S. 98

Rep. Turner of Milton moved that the committee on Rules be relieved of House bill, entitled

An act relating to authorizing owner-financed property sales

And that the bill be committed to the committee on Commerce and Economic Development, which was agreed to.

**Senate Proposal of Amendment to House Proposal of Amendment
Concurred in with a Further Amendment Thereto**

S. 92

Senate bill, entitled

An act relating to the protection of students' health by requiring the use of safe cleaning products in schools

Was taken up and **Rep. Buxton of Tunbridge** moved to concur in the Senate proposal of amendment to House proposal of amendment with a further amendment thereto as follows:

First: In Sec. 2 (Transition), subdivision (1), by striking both references to "2011" and inserting in lieu thereof "2012"

Second: In Sec. 2, subdivision (2), by striking both references to "2012" and inserting in lieu thereof "2013"

Third: In Sec. 4 (Effective Date), by striking "2011" and inserting in lieu thereof "2012"

Which proposal of amendment was considered and concurred in.

Remarks Journalized

On motion of **Rep. Donovan of Burlington**, the following remarks by **Rep. Weston of Burlington** were ordered printed in the Journal:

"Mr. Speaker:

As many of you know, today is my last day as a member of this esteemed body. I have accepted a job working on women's political participation in Jordan. In doing so, I must resign my legislative seat.

It has been an honor to represent the people of Burlington and work with a

strong community of people building a better Vermont for the last five years. Our State has one of the best forms of community-based democracy in the world.

Our camaraderie as a body, our accountability and accessibility to the public, and our ability to make brave and forward thinking public policy decisions are some of the things that make the Vermont House of Representatives a unique, and, in my opinion, one of the best deliberative bodies in the country. It is the power of all of us working together and with our constituents that makes this all possible. On the other side of the coin, I have learned so much during these last five years and I am looking forward to sharing some of our experiences with leaders abroad.

I'll miss each and every one of you.

Keep up the good work! And be in touch!"

Adjournment

At one o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, January 5, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rabbi Tobie Weisman of Yearning for Learning Center, Montpelier, VT..

Correspondence from Rep. Rachel Weston

"January 4, 2012

Dear Clerk of the Vermont House of Representatives,

Please accept this letter as my official resignation from the Vermont House of Representatives to represent the Chittenden 3-3 legislative district, to be effective on January 5th, 2012.

It has been an honor to serve the people of Burlington and the State of Vermont for the last five years. The people of the Chittenden 3-3 legislative district have been engaged in civic affairs and it has been an honor and pleasure to help them turn important policy ideas, such as equal marriage rights, toxic chemical reforms, and universal healthcare, into realized law.

The camaraderie among legislators in Vermont is in my opinion unique

and enables the body to work effectively in representing all Vermonters and creating law that moves Vermont forward. The ideal Vermont legislature is a citizen legislature in which elected members can maintain both a role as a private citizen with a career and a legislator simultaneously. However, currently it is becoming increasingly difficult for ordinary citizens to be able to serve in the legislature, as the financial sacrifice necessary to do so, in many cases, doesn't allow for an individual member to be able to support a family or themselves. One should not have to be independently wealthy, retired, or willing to take an oath of poverty in order to serve as an elected member within our democratic system. A few small reforms toward legislative compensation could go a long way towards retaining our democracy by affording the opportunity for more working age Vermonters to serve their communities.

Sincerely,

/s/ Representative Rachel Weston
Chittenden 3-3"

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 483

By Rep. Deen of Westminster,

House bill, entitled

An act relating to requiring a stream alteration permit for removal of timber from watercourses;

To the committee on Fish, Wildlife & Water Resources.

H. 484

By Rep. Olsen of Jamaica,

House bill, entitled

An act relating to amendment to the Windham solid waste district charter;

To the committee on Government Operations.

H. 485

By Reps. Klein of East Montpelier, Cheney of Norwich and Edwards of Brattleboro,

House bill, entitled

An act relating to establishing universal recycling of solid waste;

To the committee on Natural Resources and Energy.

H. 486

By Rep. Wizowaty of Burlington,

House bill, entitled

An act relating to probate proceedings;

To the committee on Judiciary.

H. 487

By Rep. Wizowaty of Burlington,

House bill, entitled

An act relating to restricting the use of portable electronic devices by motor vehicle operators;

To the committee on Judiciary.

H. 488

By Rep. Deen of Westminster,

House bill, entitled

An act relating to a report by the agency of natural resources on hydrology credits used in stormwater permits for high elevation facilities;

To the committee on Fish, Wildlife & Water Resources.

H. 489

By Rep. Wizowaty of Burlington,

House bill, entitled

An act relating to records of the office of internal investigation;

To the committee on Government Operations.

H. 490

By Rep. Malcolm of Pawlet,

House bill, entitled

An act relating to the types of wastewater permits used for the current use program;

To the committee on Fish, Wildlife & Water Resources.

H. 491

By Rep. Malcolm of Pawlet,

House bill, entitled

An act relating to raising the penalties for texting while driving;

To the committee on Judiciary.

H. 492

By Reps. Mook of Bennington, Edwards of Brattleboro, Botzow of Pownal, Burke of Brattleboro, Klein of East Montpelier, Lenex of Shelburne and Stuart of Brattleboro,

House bill, entitled

An act relating to insurance coverage for hearing aids;

To the committee on Health Care.

H. 493

By Reps. Pugh of South Burlington, Head of South Burlington, Kupersmith of South Burlington and Munger of South Burlington,

House bill, entitled

An act relating to approval of amendments to the charter of the city of South Burlington;

To the committee on Government Operations.

H. 494

By Rep. Klein of East Montpelier,

House bill, entitled

An act relating to health care professional transparency;

To the committee on Health Care.

H. 495

By Rep. Till of Jericho,

House bill, entitled

An act relating to health care provider bargaining groups;

To the committee on Health Care.

Committee Appointment

The Speaker appointed Rep. Ram of Burlington to the committee on Ways and Means.

**Rules Suspended; Favorable Report; Third Reading Ordered;
Rules Suspended, Bill Read Third Time and Passed; Rules Suspended
and Bill Ordered Messaged to the Senate Forthwith**

H. 461

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to the reimbursement of statewide education property taxes that were abated due to flood damage

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Olsen of Jamaica spoke for the committee on Ways and Means.

Rep. Manwaring of Wilmington, for the committee on Appropriations, reported in favor of its passage.

Thereupon, the bill was read the second time and third reading ordered.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of **Rep. Turner of Milton** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Joint Resolution Adopted in Concurrence**J.R.S. 35**

Joint resolution, entitled

Joint resolution relating to Town Meeting adjournment

Was taken up and adopted in concurrence.

Adjournment

At one o'clock and thirty-six minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, January 6, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Mark McEathron of the Old Brick Church, East Montpelier, VT.

Memorial Service

The Speaker placed before the House the following names of members of past sessions of the Vermont General Assembly who had passed away recently:

Alice Cook Bassett	Member from Burlington Sessions of 1983, 1985, 1987, 1989 & 1991
Rene L. Blanchard	Member from Burlington Sessions of 1995, 1997 & 1999
Nancy A. Christopher	Member from Alburgh Sessions of 1991 & 1993
Marie P. Condon	Member from Bennington Sessions of 1981, 1983 & 1985
John H. Downs	Member from St Johnsbury Sessions of 1961 & 1963
Richard W. Mallary	Member from Fairlee Sessions of 1961, 1963, 1965, 1966 & 1967 Speaker 1966 & 1967
	Member from Brookfield Session of 1999. Member of Senate Session of 1969. Member of U.S. House of Representative 1972 to 1974
Mark B. Mitchell	Member from Barnard Sessions of 2007, 2009 & 2011
John F. Murphy	Member from Ludlow Sessions of 1969, 1971, 1973, 1975, 1977, 1979, 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995 & 1997

Harvey B. Otterman, Jr.	Member from Topsham Sessions of 2001, 2003, 2005 & 2007
Mary T. Paull	Member from Newport City Sessions of 1985 & 1987
Carl H. Reidel	Member from Ferrisburgh Session of 1996
Louise R. Swainbank	Member from St Johnsbury Sessions of 1971, 1973, 1975, 1977 & 1979

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased members. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved families

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 496

By Reps. Stevens of Shoreham, Branagan of Georgia, Burke of Brattleboro and Taylor of Barre City,

House bill, entitled

An act relating to preserving Vermont's working landscape;

To the committee on Agriculture.

H. 497

By Reps. Cheney of Norwich, Edwards of Brattleboro, Jerman of Essex, Klein of East Montpelier and Malcolm of Pawlet,

House bill, entitled

An act relating to disclosure of a building's energy performance;

To the committee on Natural Resources and Energy.

H. 498

By Reps. Donahue of Northfield, Acinapura of Brandon, Batchelor of Derby, Dickinson of St. Albans Town, French of Randolph, Koch of Barre Town, McAllister of Highgate, McFaun of Barre Town, Poirier of Barre City and Till of Jericho,

House bill, entitled

An act relating to parity for primary mental health care services;

To the committee on Health Care.

H. 499

By Reps. Grad of Moretown and Donahue of Northfield,

House bill, entitled

An act relating to returning administrative responsibility for the disabled veterans' property tax exemption to the towns;

To the committee on General, Housing and Military Affairs.

H. 500

By Reps. Till of Jericho, McFaun of Barre Town, Mrowicki of Putney, O'Brien of Richmond and Pearson of Burlington,

House bill, entitled

An act relating to the health access oversight committee;

To the committee on Health Care.

H. 501

By Rep. Mook of Bennington,

House bill, entitled

An act relating to a lupus advisory panel within the department of health;

To the committee on Human Services.

H. 502

By Reps. Bouchard of Colchester, Acinapura of Brandon, Atkins of Winooski, Batchelor of Derby, Brennan of Colchester, Burditt of West Rutland, Canfield of Fair Haven, Christie of Hartford, Condon of Colchester, Consejo of Sheldon, Crawford of Burke, Devereux of Mount Holly, Donaghy of Poultney, Donahue of Northfield, Fagan of Rutland City, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell, Johnson of Canaan, Koch of Barre Town, Lawrence of Lyndon, Lewis of Berlin, Marcotte of Coventry, McAllister of Highgate, McNeil of Rutland Town, Pearce of Richford, Peaslee of Guildhall, Perley of Enosburgh, Savage of Swanton, Smith of New Haven and Strong of Albany,

House bill, entitled

An act relating to declaring March 10, 2012 a state sales tax free holiday;

To the committee on Ways and Means.

H. 503

By Reps. Grad of Moretown, Atkins of Winooski, Donaghy of Poultney, Fagan of Rutland City, French of Shrewsbury, Hebert of Vernon, Koch of Barre Town, Lewis of Derby, Marek of Newfane, Martin of Springfield, Waite-Simpson of Essex and Wizowaty of Burlington,

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers;

To the committee on Government Operations.

H. 504

By Reps. Larocque of Barnet, Acinapura of Brandon, Atkins of Winooski, Bissonnette of Winooski, Helm of Fair Haven, Lawrence of Lyndon, Reis of St. Johnsbury and Shaw of Pittsford,

House bill, entitled

An act relating to expanding the beverage container deposit law to include plastic water bottles;

To the committee on Natural Resources and Energy.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 503

Rep. Sweaney of Windsor moved that the committee on Government Operations be relieved of House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

And that the bill be committed to the committee on Judiciary, which was agreed to.

Adjournment

At nine o'clock and fifty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, January 10, 2012, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 36.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested

floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 204

House concurrent resolution recognizing January 4, 2012 as Homelessness Day at the State House;

H.C.R. 205

House concurrent resolution in memory of the former Dean of the House Representative John Francis Murphy of Ludlow;

H.C.R. 206

House concurrent resolution congratulating the 2011 Peoples Academy Wolves Division III championship girls' soccer team;

H.C.R. 207

House concurrent resolution congratulating the 2011 Peoples Academy Division III championship boys' soccer team;

H.C.R. 208

House concurrent resolution in memory of former Speaker of the House and Vermont statesman Richard Walker Mallary of Brookfield;

H.C.R. 209

House concurrent resolution honoring Kathy Boyden for her 40 years of exemplary public service in the town of Williston;

H.C.R. 210

House concurrent resolution congratulating the 2011 Champlain Valley Union High School Redhawks' second consecutive New England championship girls' cross-country team;

H.C.R. 211

House concurrent resolution in memory of former Representative Mark Mitchell of Barnard;

H.C.R. 212

House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Division III field hockey team;

H.C.R. 213

House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Division II championship baseball team;

H.C.R. 214

House concurrent resolution congratulating the 2011 Middlebury Union High School Tigers Division I championship field hockey team;

H.C.R. 215

House concurrent resolution honoring the Franklin County Industrial Development Corporation on its 40th anniversary;

H.C.R. 216

House concurrent resolution honoring Barbara Brayton for her laudable leadership of the Northfield Senior Center;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, January 10, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Father Michael Augustinowicz of St. Augustine's Church, Montpelier, VT.

Pledge of Allegiance

Page Nina Brundage of Waterbury led the House in the Pledge of Allegiance.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 505

By the committee on Ways and Means,

An act relating to allowing the treasurer to defer the December 1, 2011 education payments to help towns affected by federal disasters in 2011 in Vermont;

Under the rule, placed on the Calendar for notice.

H. 506

By Rep. Conquest of Newbury,

House bill, entitled

An act relating to vinous beverages;

To the committee on General, Housing and Military Affairs.

H. 507

By Reps. Donovan of Burlington, Aswad of Burlington, Bissonnette of Winooski, Lorber of Burlington, O'Sullivan of Burlington, Pearson of Burlington, Wizowaty of Burlington and Wright of Burlington,

House bill, entitled

An act relating to authorizing the city of Burlington to issue in fiscal year 2012 the school bond approved in 2009;

To the committee on Government Operations.

H. 508

By Rep. Clarkson of Woodstock,

House bill, entitled

An act relating to tuition payments to out-of-state independent schools;

To the committee on Education.

H. 509

By Reps. Masland of Thetford and Cheney of Norwich,

House bill, entitled

An act relating to permitting supervisory union boundary adjustments without state board of education involvement;

To the committee on Education.

H. 510

By Reps. Masland of Thetford and Cheney of Norwich,

House bill, entitled

An act relating to duties performed by supervisory unions on behalf of member districts;

To the committee on Education.

H. 511

By Rep. Manwaring of Wilmington,

House bill, entitled

An act relating to joint contract schools and consolidation grants;
To the committee on Education.

H. 512

By Reps. Botzow of Pownal, Marcotte of Coventry, Dickinson of St. Albans Town, Kitzmiller of Montpelier, Kupersmith of South Burlington, Ralston of Middlebury, Russell of Rutland City, Shand of Weathersfield and Young of Glover,

House bill, entitled

An act relating to banking, insurance, securities, and health care administration;

To the committee on Commerce and Economic Development.

H. 513

By Reps. Deen of Westminster and Klein of East Montpelier,

House bill, entitled

An act relating to an environmental review board that hears appeals and enforcement actions concerning state environmental permits;

To the committee on Natural Resources and Energy.

H. 514

By Rep. Shand of Weathersfield,

House bill, entitled

An act relating to the universal service fund and prepaid mobile telecommunications service;

To the committee on Commerce and Economic Development.

H. 515

By the committee on Government Operations,

An act relating to holding public agencies harmless for disclosure of property tax adjustment information;

Under the rule, placed on the Calendar for notice.

H. 516

By Reps. Emmons of Springfield and Martin of Springfield,

House bill, entitled

An act relating to public school athletic teams;

To the committee on Education.

H. 517

By Reps. Shaw of Pittsford, Burditt of West Rutland, Hebert of Vernon, Helm of Fair Haven, Howrigan of Fairfield, McAllister of Highgate, McNeil of Rutland Town, Potter of Clarendon, Savage of Swanton and Shand of Weathersfield,

House bill, entitled

An act relating to prohibiting operation of vehicles on flooded highways and authorizing recovery of expenses for emergency services;

To the committee on Transportation.

H. 518

By Reps. Deen of Westminster and McCullough of Williston,

House bill, entitled

An act relating to the testing of potable water supplies;

To the committee on Fish, Wildlife & Water Resources.

H. 519

By Reps. Clarkson of Woodstock and Deen of Westminster,

House bill, entitled

An act relating to regulation of flood hazard areas;

To the committee on Fish, Wildlife & Water Resources.

H. 520

Reps. Jerman of Essex introduced a bill, entitled

An act relating to visibility of lamps on fire and emergency medical response vehicles

Which was read the first time and referred to the committee on Transportation.

Message from the Senate No. 2

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 38. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Adjournment

At ten o'clock and fifteen minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, January 11, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Mark Pitton of Bethany Church, Montpelier, VT.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 521

By Rep. Nuovo of Middlebury,

House bill, entitled

An act relating to promoting and expanding workforce training opportunities for professionals;

To the committee on Commerce and Economic Development.

H. 522

By Reps. Macaig of Williston and McCullough of Williston,

House bill, entitled

An act relating to regulating common interest communities;

To the committee on Commerce and Economic Development.

H. 523

By Reps. Koch of Barre Town and Bissonnette of Winooski,

House bill, entitled

An act relating to revising the state highway condemnation law;

To the committee on Judiciary.

H. 524

By Rep. Sweaney of Windsor,

House bill, entitled

An act relating to the regulation of professions and occupations;

To the committee on Government Operations.

Joint Resolution Adopted in Concurrence**J.R.S. 38**

By Senators Carris and Mullin,

J.R.S. 38. Joint resolution weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, January 12, 2012, or, Friday, January 13, 2012, it be to meet again no later than Tuesday, January 17, 2012.

Was taken up read and adopted in concurrence.

**Committee Relieved of Consideration
and Bill Committed to Other Committee****H. 470**

Rep. Sweaney of Windsor moved that the committee on Government Operations be relieved of House bill, entitled

An act relating to discontinuance of a public water system

And that the bill be committed to the committee on Fish, Wildlife & Water Resources, which was agreed to.

Adjournment

At one o'clock and fifteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, January 12, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Caleb Abetti of the Alaska Orthodox Church, Northfield, VT.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 525

By Reps. Masland of Thetford and Cheney of Norwich,
House bill, entitled

An act relating to the siting and regulation of utility poles treated with wood preservatives ;

To the committee on Natural Resources and Energy.

H. 526

By Reps. Trieber of Rockingham and Partridge of Windham,
House bill, entitled

An act relating to legislative approval of certain hydroelectric facilities;

To the committee on Fish, Wildlife & Water Resources.

H. 527

By Reps. Till of Jericho, Atkins of Winooski, Bohi of Hartford, Cheney of Norwich, Christie of Hartford, Consejo of Sheldon, Evans of Essex, Gilbert of Fairfax, Howrigan of Fairfield, Kitzmiller of Montpelier, Lenex of Shelburne, Masland of Thetford, Munger of South Burlington, Shand of Weathersfield, Townsend of Randolph and Waite-Simpson of Essex,

House bill, entitled

An act relating to requiring immunizations for attendance at school and child care facilities;

To the committee on Education.

H. 528

By Reps. Webb of Shelburne, Deen of Westminster, McCullough of Williston and Munger of South Burlington,

House bill, entitled

An act relating to the sale of big game and the feeding of bear;

To the committee on Fish, Wildlife & Water Resources.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 490

Rep. Deen of Westminster moved that the committee on Fish, Wildlife & Water Resources be relieved of House bill, entitled

An act relating to the types of wastewater permits used for the current use program

And that the bill be committed to the committee on Ways and Means, which was agreed to.

Remarks Journalized

On motion of **Rep. Pugh of South Burlington**, the following remarks by **Rep. Donovan of Burlington** were ordered printed in the Journal:

“Mr. Speaker:

Today we celebrate our good friend Jean Jasman for her many decades of service to Vermont and in particular to this Chamber. In fact, her very first year of service to the House was 46 years ago when Phil Hoff was the first Democratic Governor, technology was just a bit slower, and only about half the numbers of bills were introduced for consideration.

I, of course, was not present when Jean began her adventure with us, but I certainly have enjoyed the last 11 years that we have worked together. I can’t enumerate the times she has patiently guided me where to sign my name on the bill and where to record the committee vote, reminded me of the times of Masses on Ash Wednesday and the rules of Lenten fast, taught me the finer points of lawn mowing and landscaping, and prescribed effective medications for my myriad ailments.

Jean’s calm demeanor are a result of her deep and abiding faith and her philosophy of life which is no matter what-- “This too shall pass”.

We wish her a rich and rewarding future in her retirement even though we will be poorer without her.

Thank you, Jean!”

Bill Read Second Time; Third Reading Ordered

H. 505

Rep. Wilson of Manchester spoke for the committee on Ways and Means.
House bill entitled

An act relating to allowing the treasurer to defer the December 1, 2011 education payments to help towns affected by federal disasters in 2011 in Vermont

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Read Second Time; Third Reading Ordered

H. 515

Rep. Hubert of Milton spoke for the committee on Government Operations.

House bill entitled

An act relating to holding public agencies harmless for disclosure of property tax adjustment information

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At one o'clock and thirty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, January 13, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Message from the Senate No. 3

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 25. Senate concurrent resolution honoring the historic preservation efforts of the Northfield Historical Society Cemetery Project.

S.C.R. 26. Senate concurrent resolution recognizing the dedicated public service and career accomplishments of retired Rutland City Police Chief Anthony Bossi.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 204. House concurrent resolution recognizing January 4, 2012 as Homelessness Day at the State House.

H.C.R. 205. House concurrent resolution in memory of the former Dean of the House Representative John Francis Murphy of Ludlow.

H.C.R. 206. House concurrent resolution congratulating the 2011 Peoples Academy Wolves Division III championship girls' soccer team.

H.C.R. 207. House concurrent resolution congratulating the 2011 Peoples Academy Division III championship boys' soccer team.

H.C.R. 208. House concurrent resolution in memory of former Speaker of the House and Vermont statesman Richard Walker Mallery of Brookfield.

H.C.R. 209. House concurrent resolution honoring Kathy Boyden for her 40 years of exemplary public service in the town of Williston.

H.C.R. 210. House concurrent resolution congratulating the 2011 Champlain Valley Union High School Redhawks' second consecutive New England championship girls' cross-country team.

H.C.R. 211. House concurrent resolution in memory of former Representative Mark Mitchell of Barnard.

H.C.R. 212. House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Division III field hockey team.

H.C.R. 213. House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Division II championship baseball team.

H.C.R. 214. House concurrent resolution congratulating the 2011 Middlebury Union High School Tigers Division I championship field hockey team.

H.C.R. 215. House concurrent resolution honoring the Franklin County Industrial Development Corporation on its 40th anniversary.

H.C.R. 216. House concurrent resolution honoring Barbara Brayton for her laudable leadership of the Northfield Senior Center.

H.C.R. 232. House concurrent resolution honoring House Calendar Clerk Jean Jasman.

Memorial Service

The Speaker placed before the House the following names of members of past sessions of the Vermont General Assembly who had passed away recently:

Kermit W. Richardson Member from Orange
Sessions of 1957, 1989, 1991 & 1993

Susan H. Webb Member from Plymouth
Sessions of 1973, 1975, 1977 & 1979

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased members. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved families

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 529

By Reps. Webb of Shelburne, Deen of Westminster, McCullough of Williston and Munger of South Burlington,

House bill, entitled

An act relating to establishing a water resources preservation program;

To the committee on Fish, Wildlife & Water Resources.

H. 530

By Rep. Jerman of Essex,

House bill, entitled

An act relating to the authority of a jury;

To the committee on Judiciary.

H. 531

By Reps. Till of Jericho, Andrews of Rutland City, Bohi of Hartford, Browning of Arlington, Cheney of Norwich, Christie of Hartford, Courcelle of Rutland City, Dakin of Chester, Deen of Westminster, Evans of Essex, Frank of Underhill, French of Randolph, Gilbert of Fairfax, Jerman of Essex, Lenex of Shelburne, Macaig of Williston, Malcolm of Pawlet, Martin of Wolcott, Masland of Thetford, Miller of Shaftsbury, Munger of South Burlington,

Nuovo of Middlebury, O'Sullivan of Burlington, Poirier of Barre City, Russell of Rutland City, Spengler of Colchester, Stuart of Brattleboro, Waite-Simpson of Essex, Wilson of Manchester, Wizowaty of Burlington, Yantachka of Charlotte and Zagar of Barnard,

House bill, entitled

An act relating to prescribing a controlled substance;

To the committee on Health Care.

H. 532

By Reps. Masland of Thetford and Cheney of Norwich,

House bill, entitled

An act relating to adding Vermont Route 132 to the state highway system;

To the committee on Transportation.

H. 533

By Reps. Botzow of Pownal, Marcotte of Coventry, Dickinson of St. Albans Town, Kitzmiller of Montpelier, Kupersmith of South Burlington, Ralston of Middlebury, Russell of Rutland City, Shand of Weathersfield and Young of Glover,

House bill, entitled

An act relating to insurance business transfers;

To the committee on Commerce and Economic Development.

H. 534

By Rep. Poirier of Barre City,

House bill, entitled

An act relating to the reporting requirements of health insurers;

To the committee on Health Care.

H. 535

By Reps. Wizowaty of Burlington, Buxton of Tunbridge, French of Shrewsbury, Johnson of South Hero, Lippert of Hinesburg, McCullough of Williston, O'Sullivan of Burlington, Pearson of Burlington, Peltz of Woodbury, Spengler of Colchester and Yantachka of Charlotte,

House bill, entitled

An act relating to racial disparities in the Vermont criminal justice system;

To the committee on Government Operations.

H. 536

By Reps. Ram of Burlington, Donovan of Burlington, O'Sullivan of Burlington and Sweaney of Windsor,

House bill, entitled

An act relating to caterer's permits;

To the committee on General, Housing and Military Affairs.

H. 537

By Reps. Helm of Fair Haven, Canfield of Fair Haven, Donaghy of Poultney, Larocque of Barnet and McAllister of Highgate,

House bill, entitled

An act relating to Vermont wine;

To the committee on General, Housing and Military Affairs.

H. 538

By Reps. Martin of Wolcott, Evans of Essex, Peltz of Woodbury, Spengler of Colchester, Stuart of Brattleboro, Townsend of Randolph and Woodward of Johnson,

House bill, entitled

An act relating to service of alcoholic beverages in clubs;

To the committee on General, Housing and Military Affairs.

H. 539

By Reps. Eckhardt of Chittenden, Browning of Arlington, Komline of Dorset and Till of Jericho,

House bill, entitled

An act relating to the financing plan for Green Mountain Care and the health benefit exchange;

To the committee on Health Care.

H. 540

By Rep. Cheney of Norwich,

House bill, entitled

An act relating to raising temporarily the gasoline tax to provide funds for storm-related repairs;

To the committee on Transportation.

H. 541

By Reps. Wizowaty of Burlington, Bartholomew of Hartland, Burke of Brattleboro, Edwards of Brattleboro, Hooper of Montpelier, Lippert of Hinesburg, McCullough of Williston, Pearson of Burlington, Poirier of Barre City, Ram of Burlington, Spengler of Colchester, Yantachka of Charlotte and Zagar of Barnard,

House bill, entitled

An act relating to the genuine progress indicator;

To the committee on Commerce and Economic Development.

H. 542

By Reps. Wizowaty of Burlington, Ancel of Calais, Aswad of Burlington, Bartholomew of Hartland, Bissonnette of Winooski, Bohi of Hartford, Burke of Brattleboro, Buxton of Tunbridge, Campion of Bennington, Christie of Hartford, Clarkson of Woodstock, Conquest of Newbury, Consejo of Sheldon, Copeland-Hanzas of Bradford, Courcelle of Rutland City, Dakin of Chester, Davis of Washington, Deen of Westminster, Donovan of Burlington, Edwards of Brattleboro, Ellis of Waterbury, Evans of Essex, Fisher of Lincoln, French of Shrewsbury, French of Randolph, Grad of Moretown, Haas of Rochester, Head of South Burlington, Johnson of South Hero, Keenan of St. Albans City, Kitzmiller of Montpelier, Krebs of South Hero, Lanpher of Vergennes, Lippert of Hinesburg, Macaig of Williston, Malcolm of Pawlet, Manwaring of Wilmington, Martin of Springfield, Masland of Thetford, McCullough of Williston, Miller of Shaftsbury, Mook of Bennington, Moran of Wardsboro, Mrowicki of Putney, Munger of South Burlington, Nuovo of Middlebury, O'Brien of Richmond, O'Sullivan of Burlington, Pearson of Burlington, Peltz of Woodbury, Poirier of Barre City, Potter of Clarendon, Spengler of Colchester, Stevens of Waterbury, Stevens of Shoreham, Sweaney of Windsor, Taylor of Barre City, Till of Jericho, Townsend of Randolph, Trieber of Rockingham, Waite-Simpson of Essex, Webb of Shelburne, Wilson of Manchester, Woodward of Johnson, Yantachka of Charlotte, Young of Glover and Zagar of Barnard,

House bill, entitled

An act relating to creating an expert panel on the creation of a state bank;

To the committee on Commerce and Economic Development.

H. 543

By Reps. Shand of Weathersfield, Howrigan of Fairfield, Malcolm of

Pawlet, Marek of Newfane, Savage of Swanton, Shaw of Pittsford, Stevens of Shoreham and Turner of Milton,

House bill, entitled

An act relating to authorizing fire department vehicles to display a blue light;

To the committee on Transportation.

H. 544

By Reps. Macaig of Williston, Dakin of Chester, Davis of Washington, Frank of Underhill, Larocque of Barnet and Lenexa of Shelburne,

House bill, entitled

An act relating to the use of colored lights by enforcement and emergency vehicles;

To the committee on Transportation.

H. 545

By Reps. Munger of South Burlington and McCullough of Williston,

House bill, entitled

An act relating to the use of formaldehyde in the cleaning of domestic animals' hooves;

To the committee on Agriculture.

H. 546

By Rep. Browning of Arlington,

House bill, entitled

An act relating to guidelines and technical assistance for emergency stream alteration activities;

To the committee on Fish, Wildlife & Water Resources.

H. 547

By Rep. Ancel of Calais,

House bill, entitled

An act relating to the participation in the state's group health insurance program by a state employee eligible for Medicare;

To the committee on Government Operations.

H. 548

By Reps. McCullough of Williston, Aswad of Burlington, Bartholomew of Hartland, Bohi of Hartford, Burke of Brattleboro, Christie of Hartford, Condon of Colchester, Conquest of Newbury, Courcelle of Rutland City, Deen of Westminster, Donahue of Northfield, Donovan of Burlington, Fagan of Rutland City, Fisher of Lincoln, Frank of Underhill, Greshin of Warren, Head of South Burlington, Heath of Westford, Hebert of Vernon, Kitzmiller of Montpelier, Kupersmith of South Burlington, Lenex of Shelburne, Lippert of Hinesburg, Lorber of Burlington, Macaig of Williston, Marcotte of Coventry, Martin of Springfield, Masland of Thetford, McFaun of Barre Town, Mrowicki of Putney, Munger of South Burlington, Nuovo of Middlebury, Pearson of Burlington, Peltz of Woodbury, Poirier of Barre City, Ram of Burlington, Russell of Rutland City, Savage of Swanton, Sharpe of Bristol, Spengler of Colchester, Stevens of Waterbury, Stevens of Shoreham, Till of Jericho, Webb of Shelburne, Wilson of Manchester, Wizowaty of Burlington, Woodward of Johnson, Yantachka of Charlotte and Young of Glover,

House bill, entitled

An act relating to passing and yielding to vulnerable users;

To the committee on Transportation.

H. 549

By Reps. Wizowaty of Burlington, Bartholomew of Hartland, Edwards of Brattleboro, French of Shrewsbury, Martin of Springfield, McCullough of Williston, Poirier of Barre City, Ram of Burlington, Spengler of Colchester, Waite-Simpson of Essex and Zagar of Barnard,

House bill, entitled

An act relating to establishing state funding eligibility for nonprofit corporations;

To the committee on Commerce and Economic Development.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 412

Rep. Donovan of Burlington moved that the committee on Education be relieved of House bill, entitled

An act relating to harassment and bullying in educational settings

And that the bill be committed to the committee on Judiciary, which was agreed to.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 535

Rep. Sweaney of Windsor moved that the committee on Government Operations be relieved of House bill, entitled

An act relating to racial disparities in the Vermont criminal justice system

And that the bill be committed to the committee on Judiciary, which was agreed to.

Third Reading; Bill Passed

H. 505

House bill, entitled

An act relating to allowing the treasurer to defer the December 1, 2011 education payments to help towns affected by federal disasters in 2011 in Vermont

Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 515

House bill, entitled

An act relating to holding public agencies harmless for disclosure of property tax adjustment information

Was taken up, read the third time and passed.

Favorable Report; Third Reading Ordered

H. 503

Rep. Grad of Moretown, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At ten o'clock in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, January 17, 2012, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 38.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 217

House concurrent resolution in memory of United States Marine Corporal Ian M. Muller of Danville;

H.C.R. 218

House concurrent resolution congratulating the 2011 Hartford High School Hurricanes Division I championship football team;

H.C.R. 219

House concurrent resolution congratulating Bruce Garrow on being named the 2011 Henry Giauque Vermont Elementary Principal of the Year;

H.C.R. 220

House concurrent resolution congratulating the 2011 Fair Haven Union High School Slaters Division II championship football team;

H.C.R. 221

House concurrent resolution congratulating the 2011 Milton High School Yellowjackets Division II girls' soccer championship team;

H.C.R. 222

House concurrent resolution congratulating Grafton Elementary School students on winning a Governor's Award for Environmental Excellence;

H.C.R. 223

House concurrent resolution congratulating Ann Thompson of Cavendish on her winning a Presidential Award for Excellence in Mathematics and Science Teaching;

H.C.R. 224

House concurrent resolution honoring Vermont Public Radio's Vermont Edition for its extraordinary community service in the aftermath of Tropical Storm Irene;

H.C.R. 225

House concurrent resolution congratulating the 2011 Woodstock Union High School Wasps Division III championship football team;

H.C.R. 226

House concurrent resolution congratulating Edward Webbley on his selection as the 2011 Vermont Principals' Association's Robert F. Pierce Vermont Secondary Principal of the Year;

H.C.R. 227

House concurrent resolution congratulating Essex High School teacher Maria Ung on her receipt of a Milken Family Foundation National Education Award;

H.C.R. 228

House concurrent resolution honoring outstanding recently retired employees of the Northfield public school system;

H.C.R. 229

House concurrent resolution in memory of former Representative Rene L. Blanchard of Essex;

H.C.R. 230

House concurrent resolution congratulating the 2011 recipients of the Vermont Truck & Bus Association Master Truck Driver certification;

H.C.R. 231

House concurrent resolution expressing sympathy and good wishes to Lieutenant Governor Phil Scott on the fire that severely damaged DuBois Construction Inc.;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, January 17, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Thomas Koch of Barre Town.

Pledge of Allegiance

Page Ethan McCollister of Montpelier, led the House in the Pledge of Allegiance.

Message from the Senate No. 4

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

S. 92. An act relating to the protection of students' health by requiring the use of safe cleaning products in schools.

And has concurred therein.

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

H. 461. An act relating to the reimbursement of statewide education property taxes that were abated due to flood damage.

And has passed the same in concurrence.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 39. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 550

By Reps. Marek of Newfane, French of Randolph, Krebs of South Hero and Myers of Essex,

House bill, entitled

An act relating to the Vermont administrative procedure act;

To the committee on Government Operations.

H. 551

By Reps. Greshin of Warren, Poirier of Barre City, Pearson of Burlington, Sharpe of Bristol and Woodward of Johnson,

House bill, entitled

An act relating to protecting propane consumers;

To the committee on Commerce and Economic Development.

H. 552

By Reps. Marcotte of Coventry, Botzow of Pownal, Dickinson of St. Albans Town, Kitzmiller of Montpelier, Kupersmith of South Burlington, Ralston of Middlebury, Russell of Rutland City, Scheuermann of Stowe, Shand of Weathersfield and Young of Glover,

House bill, entitled

An act relating to payment of workers' compensation benefits by electronic payroll card;

To the committee on Commerce and Economic Development.

H. 553

By Reps. Grad of Moretown, McAllister of Highgate and Stevens of Shoreham,

House bill, entitled

An act relating to amending perpetual conservation easements;

To the committee on Judiciary.

H. 554

By Reps. Hebert of Vernon, Acinapura of Brandon, Batchelor of Derby, Bouchard of Colchester, Branagan of Georgia, Burditt of West Rutland, Canfield of Fair Haven, Clark of Vergennes, Crawford of Burke, Degree of St. Albans City, Donaghy of Poultney, Eckhardt of Chittenden, Fagan of Rutland City, Helm of Fair Haven, Koch of Barre Town, Larocque of Barnet, Lawrence of Lyndon, Lewis of Berlin, Lewis of Derby, McAllister of Highgate, McCullough of Williston, McFaun of Barre Town, McNeil of Rutland Town, Myers of Essex, Pearce of Richford, Peaslee of Guildhall, Perley of Enosburgh, Reis of St. Johnsbury, Savage of Swanton, Shaw of Pittsford, Strong of Albany, Townsend of Randolph, Winters of Williamstown and Yantachka of Charlotte,

House bill, entitled

An act relating to providing money for Vermonters whose homes were lost in or damaged by Tropical Storm Irene;

To the committee on Appropriations.

H. 555

By Reps. Stevens of Shoreham, Acinapura of Brandon, Bouchard of Colchester, Browning of Arlington, Buxton of Tunbridge, Canfield of Fair Haven, Condon of Colchester, Conquest of Newbury, French of Shrewsbury, Greshin of Warren, Johnson of Canaan, Lawrence of Lyndon, Lorber of Burlington, Malcolm of Pawlet, Masland of Thetford, McAllister of Highgate, McNeil of Rutland Town, Moran of Wardsboro, Olsen of Jamaica, Peltz of Woodbury, Potter of Clarendon, Russell of Rutland City, Savage of Swanton, Shand of Weathersfield, Sharpe of Bristol, Shaw of Pittsford, Smith of New Haven, Turner of Milton, Wilson of Manchester and Zagar of Barnard,

House bill, entitled

An act relating to the definition of line of duty in the workers' compensation statutes;

To the committee on Commerce and Economic Development.

H. 556

By Reps. Botzow of Pownal, Dickinson of St. Albans Town, Kitzmiller of Montpelier, Kupersmith of South Burlington, Marcotte of Coventry, Ralston of Middlebury, Russell of Rutland City, Scheuermann of Stowe, Shand of Weathersfield and Young of Glover,

House bill, entitled

An act relating to creating a private activity bond advisory committee;

To the committee on Commerce and Economic Development.

H. 557

By Reps. Ram of Burlington, Grad of Moretown, Donovan of Burlington, French of Shrewsbury, O'Sullivan of Burlington, Partridge of Windham, Pugh of South Burlington, Waite-Simpson of Essex and Wizowaty of Burlington,

House bill, entitled

An act relating to expunging a criminal conviction record of a victim of human trafficking;

To the committee on Judiciary.

H. 558

By the committee on Appropriations,

An act relating to fiscal year 2012 budget adjustment;

Under the rule, placed on the Calendar for notice.

H. 559

By Reps. Fisher of Lincoln and Pugh of South Burlington,
House bill, entitled
An act relating to health care reform implementation;
To the committee on Health Care.

Third Reading; Bill Passed**H. 503**

House bill, entitled
An act relating to eliminating the ability of the sergeant at arms to employ a
traffic control officer and requiring the certification of capitol police officers
Was taken up, read the third time and passed.

**Favorable Report; Third Reading Ordered; Rules Suspended;
Bill Read Third Time and Passed; Rules Suspended; Bill Ordered
Messaged to the Senate Forthwith**

H. 493

Rep. Atkins of Winooski, for the committee on Government Operations, to
which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the city of
South Burlington

Reported in favor of its passage. The bill, having appeared on the Calendar
one day for notice, was taken up, read the second time and third reading
ordered.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill
placed on all remaining stages of passage. The bill was read the third time and
passed and, on motion of **Rep. Turner of Milton** the rules were suspended and
the bill was ordered messaged to the Senate forthwith.

Adjournment

At ten o'clock and thirty-five minutes in the forenoon, on motion of **Rep.
Turner of Milton**, the House adjourned until tomorrow at one o'clock in the
afternoon.

Wednesday, January 18, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Skip Baltz of Our Lady of Good Help Catholic Church, Brandon, VT.

Joint Resolution Placed on Calendar**J.R.H. 20**

Joint resolution authorizing 2012 Green Mountain Boys' State to conduct a civic education program at the State House

Offered by: Representatives Koch of Barre Town, Lawrence of Lyndon, Conquest of Newbury, Crawford of Burke, Marcotte of Coventry, Smith of New Haven and Turner of Milton

Whereas, for many years, the Vermont American Legion has sponsored the annual Green Mountain Boys' State (Boys' State) civic education program, and

Whereas, Boys' State enables young men in high school to gain a firsthand experience and understanding of state government's procedures in all three branches of government, and

Whereas, a highlight of Boys' State is the day at the State House, featuring mock legislative committee meetings and chamber debate on proposed bills that focus on leading public policy issues, and students shadow senior officials in the executive and judicial branches, and

Whereas, legislative staff have offered their professional support services, helping the students gain a better appreciation of Vermont's legislative process, and

Whereas, in 2012, Boys' State is scheduled to convene at the State House on June 21, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes Green Mountain Boys' State to use the House and Senate chambers and the legislative committee meeting rooms on Thursday, June 21, 2012, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont American Legion.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Joint Resolution Adopted in Concurrence**J.R.S. 39**

By Senators Carris and Mullin,

J.R.S. 39. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, January 19, 2012, or, Friday, January 20, 2012, it be to meet again no later than Tuesday, January 24, 2012.

Was taken up read and adopted in concurrence.

Adjournment

At one o'clock and fifteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, January 19, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Paul Habersang of Christ Episcopal Church, Montpelier, VT.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 560

By Reps. Sharpe of Bristol and Deen of Westminster,

House bill, entitled

An act relating to the training and certification of a person conducting stream alteration;

To the committee on Fish, Wildlife & Water Resources.

H. 561

By Reps. Olsen of Jamaica, Crawford of Burke and Wilson of Manchester,

House bill, entitled

An act relating to the definition of domicile in Vermont's tax laws;
To the committee on Ways and Means.

H. 562

By Reps. Partridge of Windham, Burke of Brattleboro and Trieber of Rockingham,

House bill, entitled
An act relating to motor vehicle noise;
To the committee on Transportation.

H. 563

By Rep. Buxton of Tunbridge,
House bill, entitled
An act relating to regulation of flood hazard areas;
To the committee on Natural Resources and Energy.

H. 564

By Reps. Botzow of Pownal, Bouchard of Colchester, Moran of Wardsboro, O'Sullivan of Burlington, Smith of New Haven and Stevens of Waterbury,

House bill, entitled
An act relating to removing abandoned mobile homes;
To the committee on General, Housing and Military Affairs.

H. 565

By Reps. Botzow of Pownal and Marcotte of Coventry,
House bill, entitled
An act relating to regulating licensed lenders and mortgage loan originators;
To the committee on Commerce and Economic Development.

H. 566

By Reps. Clarkson of Woodstock and Stevens of Waterbury,
House bill, entitled
An act relating to residential housing registration;
To the committee on General, Housing and Military Affairs.

H. 567

By Rep. Bohi of Hartford,

House bill, entitled

An act relating to the pro bono licensure of dentists, dental hygienists, and physicians who are licensed in New Hampshire;

To the committee on Government Operations.

H. 568

By Reps. Masland of Thetford, Cheney of Norwich, Clarkson of Woodstock, Howard of Cambridge, Howrigan of Fairfield, Mrowicki of Putney, Till of Jericho and Zagar of Barnard,

House bill, entitled

An act relating to medical marijuana;

To the committee on Human Services.

H. 569

By Rep. Heath of Westford,

House bill, entitled

An act relating to reciprocal recognition of driver examinations;

To the committee on Transportation.

H. 570

By Reps. Wilson of Manchester and Sharpe of Bristol,

House bill, entitled

An act relating to wage withholding orders for overdue rent;

To the committee on General, Housing and Military Affairs.

H. 571

By Reps. Till of Jericho and Copeland-Hanzas of Bradford,

House bill, entitled

An act relating to Vermont's prescribed product manufacturer gift ban and disclosure requirements;

To the committee on Health Care.

H. 572

By Reps. Heath of Westford and Wizowaty of Burlington,
House bill, entitled

An act relating to postdivorce or dissolution health insurance coverage and privacy protections;

To the committee on Health Care.

H. 573

By Reps. Dakin of Chester, Copeland-Hanzas of Bradford, Eckhardt of Chittenden, Komline of Dorset, Spengler of Colchester and Woodward of Johnson,

House bill, entitled

An act relating to health care practitioner signature authority;

To the committee on Health Care.

H. 574

By Rep. Martin of Wolcott,

House bill, entitled

An act relating to wearing blaze orange while hunting deer;

To the committee on Fish, Wildlife & Water Resources.

H. 575

By Rep. Koch of Barre Town,

House bill, entitled

An act relating to owner-financed real estate sales;

To the committee on Commerce and Economic Development.

Message from the Senate No. 5

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 27. Senate concurrent resolution in memory of former Representative John H. Downs.

S.C.R. 28. Senate concurrent resolution celebrating the centennial anniversary of Montpelier City Hall.

S.C.R. 29. Senate concurrent resolution congratulating the 2011 Johnson State College national Division IV championship women's rugby team.

S.C.R. 30. Senate concurrent resolution recognizing the contribution of Kenric A. Kite to the development of public access television in central Vermont.

S.C.R. 31. Senate concurrent resolution honoring Dr. Frank G. Miglorie for his 41 years of service to and outstanding 28-year tenure as President of the College of St. Joseph.

S.C.R. 32. Senate concurrent resolution honoring the public service work of Brattleboro radio station WTSA during Tropical Storm Irene.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 217. House concurrent resolution in memory of United States Marine Corporal Ian M. Muller of Danville.

H.C.R. 218. House concurrent resolution congratulating the 2011 Hartford High School Hurricanes Division I championship football team.

H.C.R. 219. House concurrent resolution congratulating Bruce Garrow on being named the 2011 Henry Giauque Vermont Elementary Principal of the Year.

H.C.R. 220. House concurrent resolution congratulating the 2011 Fair Haven Union High School Slaters Division II championship football team.

H.C.R. 221. House concurrent resolution congratulating the 2011 Milton High School Yellowjackets Division II girls' soccer championship team.

H.C.R. 222. House concurrent resolution congratulating Grafton Elementary School students on winning a Governor's Award for Environmental Excellence.

H.C.R. 223. House concurrent resolution congratulating Ann Thompson of Cavendish on her winning a Presidential Award for Excellence in Mathematics and Science Teaching.

H.C.R. 224. House concurrent resolution honoring Vermont Public Radio's Vermont Edition for its extraordinary community service in the

aftermath of Tropical Storm Irene.

H.C.R. 225. House concurrent resolution congratulating the 2011 Woodstock Union High School Wasps Division III championship football team.

H.C.R. 226. House concurrent resolution congratulating Edward Webbley on his selection as the 2011 Vermont Principals' Association's Robert F. Pierce Vermont Secondary Principal of the Year.

H.C.R. 227. House concurrent resolution congratulating Essex High School teacher Maria Ung on her receipt of a Milken Family Foundation National Education Award.

H.C.R. 228. House concurrent resolution honoring outstanding recently retired employees of the Northfield public school system.

H.C.R. 229. House concurrent resolution in memory of former Representative Rene L. Blanchard of Essex.

H.C.R. 230. House concurrent resolution congratulating the 2011 recipients of the Vermont Truck & Bus Association Master Truck Driver certification.

H.C.R. 231. House concurrent resolution expressing sympathy and good wishes to Lieutenant Governor Phil Scott on the fire that severely damaged DuBois Construction Inc.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 150

Rep. Brennan of Colchester moved that the committee on Transportation be relieved of House bill, entitled

An act relating to handheld use of portable electronic devices and primary seatbelt enforcement

And that the bill be committed to the committee on Judiciary, which was agreed to.

**Bill Read Second Time; Bill Amended; Consideration
Interrupted by Recess**

H. 558

Rep. Heath of Westford spoke for the committee on Appropriations.

House bill entitled

An act relating to fiscal year 2012 budget adjustment

Having appeared on the Calendar one day for notice, was taken up, and read the second time. Pending the question, Shall the bill be read the third time?

Rep. Heath of Westford moved that the bill be amended as follows:

First: In Sec. 14, by striking out the figure “127,958,225” and inserting in lieu thereof the figure 125,548,225 and by striking out the figure “232,795,524” and inserting in lieu thereof the figure 234,205,524 and by striking out the figure “24,226,979” and inserting in lieu thereof the figure 25,226,979

Second: In Sec. 61, by striking out the figure “28,681,520” and inserting in lieu thereof the figure 28,381,520 and by striking out the figure “13,516,260” and inserting in lieu thereof the figure 13,816,260

Recess

At one o'clock and forty-five minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and ten minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 558

Consideration resumed on House bill, entitled

An act relating to fiscal year 2012 budget adjustment;

The recurring question, Shall the bill be amended as recommended by Rep. Heath of Westford? was agreed to.

Pending the question, Shall the bill be read the third time?, **Rep. Davis of Washington** moved to amend the bill as follows:

By striking Sec. 97 and 97a (legislative information technology; e-mail management) in their entirety.

Which was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Turner of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 98. Nays, 43.

Those who voted in the affirmative are:

Acinapura of Brandon	French of Shrewsbury	Nuovo of Middlebury
Ancel of Calais	French of Randolph	O'Brien of Richmond
Andrews of Rutland City	Gilbert of Fairfax	O'Sullivan of Burlington
Aswad of Burlington	Grad of Moretown	Partridge of Windham
Atkins of Winooski	Haas of Rochester	Pearce of Richford
Bartholomew of Hartland	Head of South Burlington	Pearson of Burlington
Bissonnette of Winooski	Heath of Westford	Peltz of Woodbury
Bohi of Hartford	Hooper of Montpelier	Poirier of Barre City
Botzow of Pownal	Howrigan of Fairfield	Potter of Clarendon
Brennan of Colchester	Jerman of Essex	Pugh of South Burlington
Browning of Arlington	Jewett of Ripton	Ralston of Middlebury
Burke of Brattleboro	Johnson of South Hero *	Ram of Burlington
Buxton of Tunbridge	Kitzmiller of Montpelier	Russell of Rutland City
Campion of Bennington	Klein of East Montpelier	Shand of Weathersfield
Cheney of Norwich	Krebs of South Hero	Sharpe of Bristol
Christie of Hartford	Kupersmith of South	South of St. Johnsbury
Clarkson of Woodstock	Burlington	Stevens of Waterbury
Condon of Colchester	Lanpher of Vergennes	Stevens of Shoreham
Conquest of Newbury	Lenes of Shelburne	Stuart of Brattleboro
Consejo of Sheldon	Leriche of Hardwick	Sweaney of Windsor
Copeland-Hanzas of	Lippert of Hinesburg	Taylor of Barre City
Bradford	Lorber of Burlington	Till of Jericho
Corcoran of Bennington	Macaig of Williston	Toll of Danville
Courcelle of Rutland City	Malcolm of Pawlet	Townsend of Randolph
Dakin of Chester	Manwaring of Wilmington	Trieber of Rockingham
Davis of Washington	Marek of Newfane	Waite-Simpson of Essex
Deen of Westminster	Martin of Wolcott	Webb of Shelburne
Donovan of Burlington	Masland of Thetford	Wilson of Manchester
Edwards of Brattleboro	McCullough of Williston	Woodward of Johnson
Ellis of Waterbury	Miller of Shaftsbury	Yantachka of Charlotte
Emmons of Springfield	Mook of Bennington	Young of Glover
Evans of Essex	Moran of Wardsboro	Zagar of Barnard
Fisher of Lincoln	Mrowicki of Putney	
Frank of Underhill	Munger of South Burlington	

Those who voted in the negative are:

Batchelor of Derby	Donahue of Northfield	Koch of Barre Town
Bouchard of Colchester	Eckhardt of Chittenden	Komline of Dorset
Branagan of Georgia	Fagan of Rutland City	Larocque of Barnet
Burditt of West Rutland	Greshin of Warren	Lawrence of Lyndon
Canfield of Fair Haven	Hebert of Vernon	Lewis of Berlin
Crawford of Burke	Helm of Fair Haven	Lewis of Derby
Degree of St. Albans City	Higley of Lowell	Marcotte of Coventry
Devereux of Mount Holly	Howard of Cambridge	McAllister of Highgate
Dickinson of St. Albans	Hubert of Milton	McFaun of Barre Town
Town	Johnson of Canaan	McNeil of Rutland Town
Donaghy of Poultney	Kilmartin of Newport City	Myers of Essex

Peaslee of Guildhall
Perley of Enosburgh
Reis of St. Johnsbury
Savage of Swanton

Scheuermann of Stowe
Shaw of Pittsford
Smith of New Haven
Strong of Albany

Turner of Milton *
Winters of Williamstown
Wright of Burlington

Those members absent with leave of the House and not voting are:

Clark of Vergennes
Keenan of St. Albans City
Martin of Springfield

Morrissey of Bennington
Olsen of Jamaica
Spengler of Colchester

Wizowaty of Burlington

Rep. Johnson of South Hero explained her vote as follows:

“Mr. Speaker:

This budget adjustment decreased General Fund spending by a quarter of a million dollars and ends the fiscal year with the same number of positions with which we began the year. We’ve spent less and held the size of state government level. I appreciate your support.”

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

Our caucus supports many of the provisions contained in this bill. Especially, those that pertain to tropical storm IRENE and LIHEAP. However, we cannot support growing the state’s future pension, healthcare and other liabilities. Authorizing the hiring of 50 new employees in the Budget Adjustment Act is not a normal practice and will add millions of dollars of employee related liability to future state budgets. We have spent the last several sessions reducing the number of state employees to balance our budgets throughout the recession years. However, since this administration has taken office they have added more than 70 new employees in the FY12 budget, propose 50 in this proposal and will likely be proposing more in FY13. We do not support growing the number of state employees, no matter how many positions remain open or vacant in state government.

The devastation and harm Vermonters endured as a result of tropical storm IRENE should not be exploited, used as an excuse or leverage to hire new state employees or to grow state government in areas not impacted by the storm.”

Thank you.”

Joint Resolution Adopted

J.R.H. 20

Joint resolution, entitled

Joint resolution authorizing 2012 Green Mountain Boys' State to conduct a civic education program at the State House;

Was taken up and adopted on the part of the House.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 563

Rep. Klein of East Montpelier moved that the committee on Natural Resources and Energy be relieved of House bill, entitled

An act relating to regulation of flood hazard areas

And that the bill be committed to the committee on Fish, Wildlife & Water Resources, which was agreed to.

Adjournment

At two o'clock and fifty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, January 20, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Christina Cosgrove, Social Director from the Bennington Veteran's Home.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 576

By Reps. Conquest of Newbury, Howard of Cambridge, Lawrence of Lyndon and Scheuermann of Stowe,

House bill, entitled

An act relating to termination of a tenancy for nonpayment of rent;

To the committee on General, Housing and Military Affairs.

H. 577

By Rep. Deen of Westminster,
House bill, entitled
An act relating to public water systems;
To the committee on Fish, Wildlife & Water Resources.

H. 578

By Rep. Poirier of Barre City,
House bill, entitled
An act relating to naturopathic physicians;
To the committee on Health Care.

H. 579

By Reps. Conquest of Newbury, Burditt of West Rutland, Johnson of
Canaan and Peaslee of Guildhall,
House bill, entitled
An act relating to a snowmobile decal exemption;
To the committee on Transportation.

H. 580

By Reps. Waite-Simpson of Essex, Clarkson of Woodstock, Deen of
Westminster, Edwards of Brattleboro, Evans of Essex, French of Shrewsbury,
Heath of Westford, Jerman of Essex, Marek of Newfane, Mrowicki of Putney,
Myers of Essex, Ram of Burlington, Till of Jericho, Wizowaty of Burlington
and Yantachka of Charlotte,
House bill, entitled
An act relating to the safe storage of a firearm;
To the committee on Judiciary.

Joint Resolution Placed on Calendar**J.R.H. 21**

Joint resolution supporting the establishment of the National Women's
History Museum in Washington, D.C.

Offered by: Representatives Ram of Burlington, Campion of Bennington,
Christie of Hartford, Clarkson of Woodstock, Courcelle of Rutland City, Dakin

of Chester, Ellis of Waterbury, Evans of Essex, French of Randolph, Heath of Westford, Johnson of South Hero, Keenan of St. Albans City, Kupersmith of South Burlington, Lenes of Shelburne, Lorber of Burlington, Macaig of Williston, Malcolm of Pawlet, Marek of Newfane, Martin of Wolcott, Miller of Shaftsbury, Mook of Bennington, Mrowicki of Putney, O'Brien of Richmond, O'Sullivan of Burlington, South of St. Johnsbury, Till of Jericho, Toll of Danville, Townsend of Randolph, Waite-Simpson of Essex, Webb of Shelburne and Yantachka of Charlotte

Whereas, in 1987, Congress declared March to serve as "Women's History Month" to acknowledge the important role women have played in shaping America, and

Whereas, although women constitute a majority of the nation's population, their achievements and contributions are underrepresented in museums and memorials, and

Whereas, only 10 percent of the people identified in a recent survey of 18 history textbooks were women, and

Whereas, in 1999, the President's Commission on the Celebration of Women in American History called for a women's history museum to be established on "The National Mall" in Washington, D.C., and

Whereas, the National Women's History Museum (NWHM), founded in 1996, is a nonpartisan, nonprofit, educational organization dedicated to preserving, interpreting, and celebrating the diverse historic contributions of women and integrating the heritage of women fully into this nation's history, and

Whereas, the NWHM seeks a site on or close to the National Mall and in close proximity to the White House and the U.S. Capitol Building, and

Whereas, the NWHM has identified federally owned property for sale near the National Mall, and two congressional bills—the National Women's History Act of 2011, sponsored by Representative Maloney in the House of Representatives as H.R. 1269 and Senator Collins in the Senate as S.80, and the National Women's History Museum and Federal Facilities Consolidation

Act of 2011, sponsored in the House of Representatives by Representative Mica as H.R. 2844 and in the Senate by Senator Boozman as S.1870—are currently pending in Congress, and

Whereas, there are museums dedicated to flight, postage stamps, buildings, and many other areas of interest but not to women, and yet women comprise 51 percent of the nation's population, and

Whereas, the NWHM will showcase the full history of women in the United States and the contributions they have made and continue to make in the marketplace, arts and sciences, government, entertainment, education, home, and community, and

Whereas, a coalition of 43 women's organizations representing eight million women, which includes the National Foundation for Women Legislators (NFWL), supports the efforts of the NWHM to establish a permanent residence near the National Mall, the most prominent location for museums to be situated in the nation's capital, and

Whereas, in 1880, 40 years before universal women's suffrage was enshrined in the United States Constitution as the 19th Amendment, the Vermont General Assembly granted tax-paying women the right to vote in and hold office in school district elections, and

Whereas, in 1917, Vermont became the first New England state to grant women the right to vote in municipal elections, and

Whereas, women have played an important role in Vermont state government, having served as governor, lieutenant governor (Vermont elected the first female lieutenant governor in the United States), secretary of state, and state treasurer, and

Whereas, in 2011, Vermont has one of the highest percentages of women state legislators of any state in the nation, and the tradition of women legislators dates to Edna Beard, who was elected the first female state representative in 1920 and then the first female state senator in 1922, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to enact legislation, subject to a set of conditions, including a prohibition on the use of federal funds, authorizing the federal government to convey land near the National Mall to the National Women's History Museum for the purpose of constructing a museum chronicling the history of women in American life, and be it further

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

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Bill Amended, Consideration Interrupted by Recess**H. 558**

House bill, entitled

An act relating to fiscal year 2012 budget adjustment

Was taken up and pending third reading of the bill, **Rep. Donahue of Northfield** moved to amend the bill as follows:

First: By striking out Secs. 82, 83, 106, 108, 109, 110, and 111 in their entirety

Second: In Sec. 114, Effective Dates, by striking out subsection (b) in its entirety and by relettering the remaining subsections to be alphabetically correct

Which was agreed to.

Pending third reading of the bill, **Rep. Higley of Lowell** moved to amend the bill as follows:

In Sec. 87 by striking out subsections (a) and (b) and by relettering the remaining subsections to be alphabetically correct.

Recess

At ten o'clock and fifteen minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock in the forenoon, the Speaker called the House to order.

**Consideration Resumed; Bill Amended;
Read the Third Time and Passed****H. 558**

Consideration resumed on House bill, entitled

An act relating to fiscal year 2012 budget adjustment,

Thereupon, the recurring question, Shall the bill be amended as recommended by Rep. Higley of Lowell? was disagreed to.

Pending third reading of the bill, **Reps. Olsen of Jamaica, Manwaring of Wilmington, Ancel of Calais, Botzow of Pownal, Branagan of Georgia, Browning of Arlington, Clarkson of Woodstock, Degree of St. Albans City, Eckhardt of Chittenden, Greshin of Warren, Hebert of Vernon, Johnson of Canaan, Komline of Dorset, Masland of Thetford,**

Scheuermann of Stowe, Sharpe of Bristol and Wright of Burlington moved to amend the bill by adding a Sec. 113a to read as follows:

Sec. 113a. GENERAL FUND TRANSFER BASE CALCULATION

(a) At the end of fiscal year 2013 and at the end of any following fiscal year, notwithstanding 32 V.S.A. §§ 308c and 308d, after the general fund budget stabilization reserve attains its statutory maximum, one-half of any additional unreserved and undesignated general fund balance shall be added to the amount transferred to the education fund until the joint fiscal committee has determined that the goal in subsection (c) of this section has been met.

(b) Notwithstanding any other provision of law, an amount equal to the amount transferred to the education fund under subsection (a) of this section shall be added to the base amount used to calculate the general fund transfer under 16 V.S.A. § 4025(a)(2) for the following fiscal year.

(c) It is the intent of the general assembly to gradually return to the adjusted amount of the general fund transfer, as increased annually under the formula prescribed by 16 V.S.A. § 4025(a)(2), that would have been used but for the changes in Sec. E.513.1 of No. 63 of the Acts of 2011. The joint fiscal committee shall determine when the increases to the base amount in 16 V.S.A. § 4025(a)(2) made under subsection (b) of this section have attained the goal stated in this subsection.

(d) The joint fiscal office shall report to the joint fiscal committee at least annually on the progress made under this section in returning to the base amount of the general fund transfer to the education fund under 16 V.S.A. § 4025(a)(2) of \$280,200,000, as increased by the inflationary index in that section, starting in fiscal year 2008.

Pending the question, Shall the bill be amended as recommended by Rep. Olsen et al? **Rep. Degree of St. Albans City**, demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Olsen et al? was decided in the affirmative. Yeas, 138. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon
Ancel of Calais
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Bartholomew of Hartland
Batchelor of Derby

Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Bouchard of Colchester
Branagan of Georgia
Brennan of Colchester
Browning of Arlington

Burditt of West Rutland
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Canfield of Fair Haven
Cheney of Norwich
Christie of Hartford

Condon of Colchester	Johnson of Canaan	Partridge of Windham
Consejo of Sheldon	Kilmartin of Newport City	Pearce of Richford
Copeland-Hanzas of Bradford	Kitzmiller of Montpelier	Pearson of Burlington
Corcoran of Bennington	Klein of East Montpelier	Peaslee of Guildhall
Courcelle of Rutland City	Koch of Barre Town	Peltz of Woodbury
Crawford of Burke	Komline of Dorset	Perley of Enosburgh
Dakin of Chester	Krebs of South Hero	Potter of Clarendon
Davis of Washington	Kupersmith of South Burlington	Pugh of South Burlington
Deen of Westminster	Lanpher of Vergennes	Ralston of Middlebury
Degree of St. Albans City	Larocque of Barnet	Ram of Burlington
Devereux of Mount Holly	Lawrence of Lyndon	Reis of St. Johnsbury
Dickinson of St. Albans Town	Lenes of Shelburne	Russell of Rutland City
Donaghy of Poultney	Leriche of Hardwick	Savage of Swanton
Donahue of Northfield	Lewis of Berlin	Scheuermann of Stowe
Donovan of Burlington	Lewis of Derby	Shand of Weathersfield
Eckhardt of Chittenden	Lippert of Hinesburg	Sharpe of Bristol
Edwards of Brattleboro	Lorber of Burlington	Shaw of Pittsford
Ellis of Waterbury	Macaig of Williston	Smith of New Haven
Emmons of Springfield	Malcolm of Pawlet	South of St. Johnsbury
Evans of Essex	Manwaring of Wilmington	Spengler of Colchester
Fagan of Rutland City	Marcotte of Coventry	Stevens of Waterbury
Fisher of Lincoln	Marek of Newfane	Stevens of Shoreham
Frank of Underhill	Martin of Springfield	Strong of Albany
French of Shrewsbury	Martin of Wolcott	Stuart of Brattleboro
French of Randolph	Masland of Thetford	Sweaney of Windsor
Gilbert of Fairfax	McAllister of Highgate	Taylor of Barre City
Grad of Moretown	McCullough of Williston	Till of Jericho
Greshin of Warren	McFaun of Barre Town	Toll of Danville
Haas of Rochester	McNeil of Rutland Town	Townsend of Randolph
Head of South Burlington	Miller of Shaftsbury	Turner of Milton
Hebert of Vernon	Mook of Bennington	Waite-Simpson of Essex
Helm of Fair Haven	Moran of Wardsboro	Webb of Shelburne
Higley of Lowell	Mrowicki of Putney	Wilson of Manchester
Hooper of Montpelier	Munger of South Burlington	Winters of Williamstown
Hubert of Milton	Myers of Essex	Wizowaty of Burlington
Jerman of Essex	Nuovo of Middlebury	Woodward of Johnson
Jewett of Ripton	O'Brien of Richmond	Wright of Burlington
Johnson of South Hero	Olsen of Jamaica	Yantachka of Charlotte
	O'Sullivan of Burlington	Young of Glover
		Zagar of Barnard

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Clark of Vergennes	Howard of Cambridge	Poirier of Barre City
Clarkson of Woodstock	Howrigan of Fairfield	Trieber of Rockingham
Conquest of Newbury	Keenan of St. Albans City	
Heath of Westford	Morrissey of Bennington	

Pending third reading of the bill, **Rep. Hebert of Vernon** moved to amend the bill as follows:

Representative Hebert of Vernon moves that the bill be amended in Sec. 67(a)(3) by striking “3,000,000.00” and inserting in lieu thereof “10,000,000.00”

Which was disagreed to.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Pearson of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 101. Nays, 37.

Those who voted in the affirmative are:

Acinapura of Brandon	French of Shrewsbury	Moran of Wardsboro
Ancel of Calais	French of Randolph	Mrowicki of Putney
Andrews of Rutland City	Gilbert of Fairfax	Munger of South Burlington
Aswad of Burlington	Grad of Moretown	Nuovo of Middlebury
Atkins of Winooski	Greshin of Warren	O'Brien of Richmond
Bartholomew of Hartland	Haas of Rochester	Olsen of Jamaica
Bissonnette of Winooski	Head of South Burlington	O'Sullivan of Burlington
Bohi of Hartford	Hooper of Montpelier	Partridge of Windham
Botzow of Pownal	Jerman of Essex	Pearce of Richford
Brennan of Colchester	Jewett of Ripton	Pearson of Burlington
Browning of Arlington	Johnson of South Hero *	Peltz of Woodbury
Burke of Brattleboro	Kitzmiller of Montpelier	Potter of Clarendon
Buxton of Tunbridge	Klein of East Montpelier	Pugh of South Burlington
Campion of Bennington	Krebs of South Hero	Ralston of Middlebury
Cheney of Norwich	Kupersmith of South Burlington	Ram of Burlington
Christie of Hartford	Lanpher of Vergennes	Russell of Rutland City
Condon of Colchester	Larocque of Barnet	Shand of Weathersfield
Consejo of Sheldon	Lenes of Shelburne	Sharpe of Bristol
Copeland-Hanzas of Bradford	Leriche of Hardwick	South of St. Johnsbury
Corcoran of Bennington	Lippert of Hinesburg	Spengler of Colchester
Courcelle of Rutland City	Lorber of Burlington	Stevens of Waterbury
Dakin of Chester	Macaig of Williston	Stevens of Shoreham
Davis of Washington	Malcolm of Pawlet	Stuart of Brattleboro
Deen of Westminster	Manwaring of Wilmington	Sweaney of Windsor
Donahue of Northfield *	Marek of Newfane	Taylor of Barre City
Donovan of Burlington	Martin of Springfield	Till of Jericho
Edwards of Brattleboro	Martin of Wolcott	Toll of Danville
Ellis of Waterbury	Masland of Thetford	Townsend of Randolph
Emmons of Springfield	McCullough of Williston	Waite-Simpson of Essex
Evans of Essex	McFaun of Barre Town	Webb of Shelburne
Fisher of Lincoln	Miller of Shaftsbury	Wilson of Manchester
Frank of Underhill	Mook of Bennington	Wizowaty of Burlington
		Woodward of Johnson

Wright of Burlington *
Yantachka of Charlotte

Young of Glover
Zagar of Barnard

Those who voted in the negative are:

Batchelor of Derby
Bouchard of Colchester
Branagan of Georgia
Burditt of West Rutland
Canfield of Fair Haven
Crawford of Burke
Degree of St. Albans City
Devereux of Mount Holly
Dickinson of St. Albans
Town *
Donaghy of Poultney
Eckhardt of Chittenden
Fagan of Rutland City

Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Hubert of Milton *
Johnson of Canaan
Kilmartin of Newport City
Koch of Barre Town
Komline of Dorset
Lawrence of Lyndon
Lewis of Berlin
Lewis of Derby
Marcotte of Coventry
McAllister of Highgate

McNeil of Rutland Town
Myers of Essex
Peaslee of Guildhall
Perley of Enosburgh
Reis of St. Johnsbury
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Smith of New Haven
Strong of Albany
Turner of Milton
Winters of Williamstown

Those members absent with leave of the House and not voting are:

Clark of Vergennes
Clarkson of Woodstock
Conquest of Newbury
Heath of Westford

Howard of Cambridge
Howrigan of Fairfield
Keenan of St. Albans City
Morrissey of Bennington

Poirier of Barre City
Trieber of Rockingham

Rep. Dickinson of St. Albans Town explained her vote as follows:

“Mr. Speaker:

I applaud the Appropriations committee for cutting \$300,000 from the General Fund as shown on the summary page of the FY12 Budget Adjustment Annotated Bill detail left on our desks.

But the bottom line of the summary page of the Annotated Bill shows the bottom line figure under totals of what was passed in May 2011 was \$6,342,357,367 and the total now for the 2012 Budget with the changes of this Budget Adjustment Act is now \$6,354,004,424. This is an increase of almost \$12 million dollars. This is an increase at the same time the state economists have predicted revenue shortfalls in the coming months.

Thank you Mr. Speaker.”

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

There is a bottom line to this bill that gives me grave concern about both policy and government expenditures. However, I publicly raised the two issues of

most significance to me in those regards and both were addressed in this final bill. For that reason, I vote yes.”

Rep. Hebert of Vernon explained his vote as follows:

“Mr. Speaker:

This is not about the need for new employees, but about how we hire them. This is just an end run on new employees and to expand government. And this is why I must vote no.”

Rep. Johnson of South Hero explained her vote as follows:

“Mr. Speaker:

This budget includes a pass thru of \$30 million that has no state fiscal impact. Once you remove that \$30 million pass thru, this bill reduces the FY12 total expenditures by nearly \$20 million and keeps our budget balanced.”

Rep. Sharpe of Bristol explained his vote as follows:

“Mr. Speaker:

The power and wisdom of our Act 60/68 Education Funding System was proven today with unanimous passage of an amendment adding additional General Fund support for the Education Fund.”

Rep. Wright of Burlington explained his vote as follows:

“Mr. Speaker:

Despite initial concerns with certain aspects of the bill, my yes vote reflects my support for various funding provisions, including ones that are important to our community in Burlington.”

Bill Amended; Third Reading Ordered

H. 507

Rep. Atkins of Winooski, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to authorizing the city of Burlington to issue in fiscal year 2012 the school bond approved in 2009

Reported in favor of its passage when amended as follows:

In Sec. 1, after the words “issued prior to the close of fiscal year”, by striking out “2012” and inserting in lieu thereof “2013”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Rules Suspended; Bill Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

H. 558

House bill, entitled

An act relating to fiscal year 2012 budget adjustment

Adjournment

At twelve o'clock and twenty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, January 24, 2012, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 39.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 232

House concurrent resolution honoring House Calendar Clerk Jean Jasman;

H.C.R. 233

House concurrent resolution in memory of former Vermont State Poet Ruth Stone of Goshen;

H.C.R. 234

House concurrent resolution congratulating the 2011 Champlain Valley Union High School Redhawks Division I championship girls' soccer team;

H.C.R. 235

House concurrent resolution honoring Jan Sotirakis of Pittsford for her extraordinary public service following Tropical Storm Irene;

H.C.R. 236

House concurrent resolution thanking Neale Lunderville for his leadership of Vermont's post-Irene recovery effort;

H.C.R. 237

House concurrent resolution congratulating Stratton Mountain Ski Resort on its golden anniversary;

H.C.R. 238

House concurrent resolution honoring James T. Day for his outstanding four-decade career in public education;

H.C.R. 239

House concurrent resolution wishing a very happy and joyous 90th birthday to the member from Burlington, Representative William Aswad;

H.C.R. 240

House concurrent resolution congratulating Barbara Brody on winning a national Teacher of the Year Award for Dedication and Excellence as a Driver Educator;

H.C.R. 241

House concurrent resolution congratulating the 2011 Harwood Union High School Highlanders boys' and girls' cross-country teams on winning their respective Division II state championships;

S.C.R. 25

Senate concurrent resolution honoring the historic preservation efforts of the Northfield Historical Society Cemetery Project;

S.C.R. 26

Senate concurrent resolution recognizing the dedicated public service and career accomplishments of retired Rutland City Police Chief Anthony Bossi;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, January 24, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Ryan Gackenhimer of the First Congregational Church, UCC, Essex Junction, VT.

Pledge of Allegiance

Page Megan Walker of Cabot led the House in the Pledge of Allegiance.

Message from the Senate No. 6

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 493. An act relating to approval of amendments to the charter of the city of South Burlington.

And has passed the same in concurrence.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 40. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 581

By Rep. Pugh of South Burlington,

House bill, entitled

An act relating to reporting requirements of fuel suppliers under the home heating assistance program;

To the committee on Human Services.

H. 582

By Reps. Fagan of Rutland City, Andrews of Rutland City, Courcelle of Rutland City, Eckhardt of Chittenden, Martin of Springfield, McNeil of Rutland Town and Russell of Rutland City,

House bill, entitled

An act relating to the types of facilities for elderly or disabled citizens subject to Vermont's meals and room tax;

To the committee on Ways and Means.

H. 583

By Rep. Masland of Thetford,

House bill, entitled

An act relating to creating a timber harvest tax;

To the committee on Ways and Means.

H. 584

By Reps. Yantachka of Charlotte and McCullough of Williston,

House bill, entitled

An act relating to green burials;

To the committee on General, Housing and Military Affairs.

H. 585

By Reps. Howard of Cambridge, Conquest of Newbury, Masland of Thetford and Olsen of Jamaica,

House bill, entitled

An act relating to distributing fine proceeds to municipalities arising from enforcement of certain motor vehicle laws;

To the committee on Government Operations.

H. 586

By Reps. Davis of Washington, Moran of Wardsboro, Poirier of Barre City and South of St. Johnsbury,

House bill, entitled

An act relating to certificates of public good issued by the public service board;

To the committee on Natural Resources and Energy.

H. 587

By Rep. Marcotte of Coventry,

House bill, entitled

An act relating to prohibiting a collector of delinquent taxes from serving as a town clerk or town treasurer;

To the committee on Government Operations.

H. 588

By Reps. Wilson of Manchester, Browning of Arlington, Clarkson of Woodstock, Condon of Colchester, Ellis of Waterbury, Evans of Essex, Hooper of Montpelier, Macaig of Williston, Moran of Wardsboro, Olsen of Jamaica, Scheuermann of Stowe and Stevens of Waterbury,

House bill, entitled

An act relating to prorating the cost of property tax appeals;

To the committee on Government Operations.

H. 589

By Rep. Lewis of Berlin,

House bill, entitled

An act relating to exempting a mobile home from the property transfer tax if it was purchased to replace a mobile home damaged or destroyed by Tropical Storm Irene or another federal disaster in Vermont in 2011;

To the committee on Ways and Means.

H. 590

By Rep. Shaw of Pittsford,

House bill, entitled

An act relating to barring the prohibition of firearms on certain private or public property;

To the committee on Judiciary.

Third Reading; Bill Passed

H. 507

House bill, entitled

An act relating to authorizing the city of Burlington to issue in fiscal year 2012 the school bond approved in 2009

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered**H. 475**

Rep. Cheney of Norwich, for the committee on Natural Resources and Energy, to which had been referred House bill, entitled

An act relating to net metering and definitions of capacity

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 219a(c) is amended to read:

(c) The board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. A net metering system shall be deemed to promote the public good of the state if it is in compliance with the criteria of this section, and board rules or orders. In developing such rules or orders, the board:

(1) With respect to a solar net metering system of ~~5~~ 10 kW or less, shall provide that the system may be installed ten days after the customer's submission to the board and the interconnecting electric company of a completed registration form and certification of compliance with the applicable interconnection requirements. Within that ten-day period, the interconnecting electric company may deliver to the customer and the board a letter detailing any issues concerning the interconnection of the system. The customer shall not commence construction of the system prior to the passage of this ten-day period and, if applicable, resolution by the board of any interconnection issues raised by the electric company in accordance with this subsection. If the ten-day period passes without delivery by the electric company of a letter that raises interconnection issues in accordance with this subsection, a certificate of public good shall be deemed issued on the 11th day without further proceedings, findings of fact, or conclusions of law, and the customer may commence construction of the system. On request, the clerk of the board promptly shall provide the customer with written evidence of the system's approval. For the purpose of this subdivision, the following shall not be included in the computation of time: Saturdays, Sundays, state legal holidays under 1 V.S.A. § 371(a), and federal legal holidays under 5 U.S.C. § 6103(a).

* * *

Sec. 2. IMPLEMENTATION; SOLAR REGISTRATION

Within 30 days of the effective date of this section, the public service board shall conform its existing solar net metering registration forms and procedures

to the provisions of Sec. 1 of this act, 30 V.S.A. § 219a(c)(1) (registration; solar net metering).

Sec. 3. 30 V.S.A. § 219a(e) is amended to read:

(e) Consistent with the other provisions of this title, electric energy measurement for net metering systems using a single nondemand meter that are not group systems shall be calculated in ~~the following manner:~~ accordance with subdivisions (1)–(3) of this subsection, and electric energy measurement for net metering systems that use other types of meters shall be calculated in accordance with subdivision (4) of this subsection.

(1) The electric company which serves the net metering customer shall measure the net electricity produced or consumed during the customer's billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electric company exceeds the electricity generated by the customer and fed back to the electric distribution system during the billing period, the customer shall be billed for the net electricity supplied by the electric company, in accordance with normal metering practices.

(3) If electricity generated by the customer exceeds the electricity supplied by the electric company:

(A) The electric company shall calculate a monetary credit to the customer by multiplying the excess kWh generated during the billing period by the kWh rate paid by the customer for electricity supplied by the company and shall apply the credit to any remaining charges on the customer's bill for that period;

(B) If application to such charges does not use the entire balance of the credit, the remaining balance of the credit shall appear on the customer's bill for the following billing period; and

(C) Any accumulated credits shall be used within 12 months, or shall revert to the electric company, without any compensation to the customer. Power reverting to the electric company under this subdivision (3) shall be considered SPEED resources under section 8005 of this title.

(4) For net metering systems using ~~time-of-day~~ time-of-use, demand, or other types of metering, ~~the board shall specify~~ the manner of measurement and the application of bill credits for the electric energy produced or consumed in a manner shall be substantially similar to that specified in this subsection for use with a single nondemand meter, and the credit shall be calculated as if the customer were charged the kWh rate component of the interconnecting

company's general residential rate schedule that consists of two rate components: a service charge and a kWh rate, excluding time-of-use rates and demand rates. If a company's general residential rate schedule includes inclining block rates, the residential rate used for the calculation shall be the highest of those block rates.

Sec. 4. 30 V.S.A. § 219a(f)(2) and (3) are amended to read:

(2) Electric energy measurement for group net metering systems shall be calculated by subtracting total usage of all meters included in the group net metering system from total generation by the group net metering system. If the electricity generated by the group net metering system is less than the total usage of all meters included in the group net metering system during the billing period, the group net metering system shall be credited for any accumulated ~~kilowatt-hour~~ credit and then billed for the net electricity supplied by the electric company, in accordance with the procedures in subsection (g)(group net metering) of this section.

(3) If electricity generated by the group net metering system exceeds the electricity supplied by the electric company, the provisions of ~~subdivision subdivisions~~ (e)(3)(credit for excess generation) and (4) (credit calculation; nonstandard meters) of this section shall apply, with credits allocated to and appearing on the bill of each member of the group net metering system in accordance with subsection (g)(group net metering) of this section.

Sec. 5. 30 V.S.A. § 219a(h)(1)(K) is amended to read:

(K) Except as provided in subdivision ~~(1)(K)~~(v) of this ~~subsection~~ subdivision (1)(K), shall in its rate schedules offer a credit to each net metering customer using solar energy that shall apply to each kWh generated by the customer's solar net metering system and that shall not displace the benefits provided to such customers under subsections (e) and (f) of this section.

(i) The credit required by this subdivision (K) shall be \$0.20 minus the ~~highest~~ residential rate per kWh charged by the company as of the date it files with the board a proposed modification to its rate schedules to effect this subdivision (K) or to revise a credit previously instituted under this subdivision (K). For the purposes of this subdivision (K), the residential rate shall be the kWh rate charged by the company under its general residential rate schedule that consists of two rate components: a service charge and a kWh rate, and shall exclude time-of-use rates and demand rates. If a company's general residential rate schedule includes inclining block rates, the residential rate shall be the highest of those block rates. Notwithstanding the basis for this credit calculation, the amount of the credit shall not fluctuate with changes in the underlying residential rate used to calculate the amount.

(ii) The electric company shall apply the credit calculated in accordance with subdivision ~~(1)(K)(i)~~ of this ~~subsection~~ subdivision (1)(K) to generation from each net metering system using solar energy regardless of the customer's rate class. A credit under this subdivision (K) shall be applied to all charges on the customer's bill from the electric company and shall be subject to the provisions of subdivisions (e)(3)(B)(credit for unused balance) and (C)(12-month reversion) and (f)(3)(credit for excess generation; group net metering) of this section.

(iii) An electric company's proposed modification to a rate schedule to offer a credit under this subdivision (K) and any investigation initiated by the board or party other than the company of an existing credit contained in such a rate schedule shall be reviewed in accordance with the procedures set forth in section 225 of this title, except that:

(I) A company's proposed modification shall take effect on filing with the board and shall not be subject to suspension under section 226 of this title;

(II) Such a modification or investigation into an existing credit shall not require review of the company's entire cost of service; and

(III) Such a modification or existing credit may be altered by the board for prospective effect only commencing with the date of the board's decision.

(iv) Within 30 days of this subdivision's effective date, each electric company shall file a proposed modification to its rate schedule that complies with this subdivision (K). Such proposed modification, as it may be revised by the board, shall not be changed for two years starting with the date of the board's decision on the modification. After the passage of that two-year period, further modifications to the amount of a credit under this subdivision may be made in accordance with subdivisions ~~(1)(K)(i)–(iii)~~ of this ~~subsection~~ subdivision (1)(K).

(v) An electric company shall not be required to offer a credit under this subdivision (K) if, as of the effective date of this subdivision, the result of the calculation described in subdivision ~~(1)(K)(i)~~ of this ~~subsection~~ subdivision (1)(K) is zero or less.

(vi) A solar net metering system shall receive the amount of the credit under this subdivision (K) that is in effect for the service territory in which the system is installed as of the date of the system's installation and shall continue to receive that amount for not less than 10 years after that date

regardless of any subsequent modification to the credit as contained in the electric company's rate schedules.

(vii) Not later than 30 days after board approval of an electric company's first rate schedule proposed to comply with this subdivision (1)(K), the company shall offer the amount of the credit contained in such rate schedule to each solar net metering system placed into service prior to the date on which the company submitted the proposed schedule to the board. Each system that accepts this offer shall receive the credit for not less than 10 years after the date of such acceptance, provided that the system remains in service, and regardless of any subsequent modification to the credit as contained in the company's rate schedules. Should an additional meter at the premises of the net metering customer be necessary to implement this subdivision (vii), or should that meter need replacement because it fails or is destroyed, the net metering customer shall bear the cost of the additional meter not pay a charge greater than the cost of the equipment and installation of the additional or replacement meter.

Sec. 6. RATE SCHEDULES; MODIFICATIONS

(a) Any electric distribution utility whose rate schedule does not comply with 30 V.S.A. § 219a(h)(1)(K) (mandatory credits; solar net metering systems) as amended by Sec. 5 of this act shall file a proposed modification to its rate schedule to achieve such compliance within 30 days of the effective date of Sec. 5.

(b) The provisions of 30 V.S.A. § 219a(h)(1)(K)(iii) (review process) shall apply to a proposed modification filed pursuant to this section.

(c) The provisions of 30 V.S.A. § 219a(h)(1)(K)(iv) (no change for two years) and (vii) (equal offer to existing solar systems) shall apply to:

(1) A proposed modification filed pursuant to this section; and

(2) Any changes to rate schedules approved by the public service board between May 25, 2011 and the effective date of this section that:

(A) comply with 30 V.S.A. § 219a(h)(1)(K) as amended by Sec. 5 of this act; and

(B) were approved pursuant to either 30 V.S.A. § 219a(h)(1)(J) (voluntary credits) or 30 V.S.A. § 219a(h)(1)(K).

Sec. 7. NET METERING; STUDY; REPORT

No later than January 15, 2013, the department of public service (the department) shall analyze whether and to what extent customers using net

metering systems under 30 V.S.A. § 219a are subsidized by other retail electric customers who do not employ net metering and shall submit the analysis and any accompanying recommendations as a written report to the general assembly. The analysis shall include an examination of any benefits or costs of net metering systems to Vermont's electric distribution and transmission systems and the extent to which customers owning net metering systems do or do not contribute to the fixed costs of Vermont's retail electric utilities. Prior to completing the analysis and submitting the report, the department shall offer an opportunity for interested persons such as the retail electric utilities and renewable energy developers and advocates to submit information and comment.

Sec. 8. 30 V.S.A. § 8002(13) is amended to read:

(13) "Plant capacity" means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant that executes a standard offer contract under this chapter, the term shall mean the aggregate AC nameplate capacity of all inverters used to convert the plant's output to AC power.

Sec. 9. EFFECTIVE DATES; RETROACTIVE APPLICATION

(a) This section and Secs. 2–8 of this act shall take effect on passage.

(b) Sec. 1 of this act (net metering; solar registration) shall take effect 30 days after passage.

(c) Notwithstanding 1 V.S.A. §§ 213 and 214, Sec. 8 of this act (amending the definition of plant capacity) shall apply to solar energy plants that have executed a standard offer contract under 30 V.S.A. chapter 89 and are commissioned, within the meaning of 30 V.S.A. § 8002(11), on or after January 1, 2012.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Natural Resources and Energy agreed to and third reading ordered.

Joint Resolution Adopted

J.R.H. 21

Joint resolution, entitled

Joint resolution supporting the establishment of the National Women's History Museum in Washington, D.C.;

Was taken up and adopted on the part of the House.

Adjournment

At ten o'clock and thirty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, January 25, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Puppets in Education from Burlington, VT.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the eighteenth day of January, 2012, he approved and signed a bill originating in the House of the following title:

H. 461 An act relating to the reimbursement of statewide education property taxes that were abated due to flood damage

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 591

By Rep. Stevens of Waterbury,

House bill, entitled

An act relating to APRN hospital staff privileges;

To the committee on Health Care.

H. 592

By Rep. Koch of Barre Town,

House bill, entitled

An act relating to powers of attorney;

To the committee on Judiciary.

H. 593

By Rep. Wright of Burlington,

House bill, entitled

An act relating to jewelry stores serving malt or vinous beverages;

To the committee on General, Housing and Military Affairs.

H. 594

By Reps. Turner of Milton and Savage of Swanton,

House bill, entitled

An act relating to creating an income tax return checkoff for contributions to help the victims of Tropical Storm Irene;

To the committee on Ways and Means.

Joint Resolution Adopted in Concurrence

J.R.S. 40

By Senators Carris and Mullin,

J.R.S. 40. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, January 26, 2012, or, Friday, January 27, 2012, it be to meet again no later than Tuesday, January 31, 2012.

Was taken up read and adopted in concurrence.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 527

Rep. Crawford of Burke moved that the committee on Education be relieved of House bill, entitled

An act relating to requiring immunizations for attendance at school and child care facilities

And that the bill be committed to the committee on Health Care, which was agreed to.

Third Reading; Bill Passed**H. 475**

House bill, entitled

An act relating to net metering and definitions of capacity

Was taken up, read the third time and passed.

Action on Bill Postponed**H. 59**

House bill, entitled

An act relating to unfair housing practices

Was taken up and pending the reading of the report of the committee on General, Housing and Military Affairs, on motion of **Rep. Stevens of Waterbury**, action on the bill was postponed until the next legislative day.

Message from the Senate No. 7

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Governor has informed the Senate that on the twenty fourth day of January, 2012, he approved and signed a bill originating in the Senate of the following title:

S. 92. An act relating to the protection of students' health by requiring the use of safe cleaning products in schools.

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 33. Senate concurrent resolution congratulating Rick Cochran of Walden on being named the Vermont and National Small Business Person of the Year.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 233. House concurrent resolution in memory of former Vermont State Poet Ruth Stone of Goshen.

H.C.R. 234. House concurrent resolution congratulating the 2011 Champlain Valley Union High School Redhawks Division I championship girls' soccer team.

H.C.R. 235. House concurrent resolution honoring Jan Sotirakis of Pittsford for her extraordinary public service following Tropical Storm Irene.

H.C.R. 236. House concurrent resolution thanking Neale Lunderville for his leadership of Vermont's post-Irene recovery effort.

H.C.R. 237. House concurrent resolution congratulating Stratton Mountain Ski Resort on its golden anniversary.

H.C.R. 238. House concurrent resolution honoring James T. Day for his outstanding four-decade career in public education.

H.C.R. 239. House concurrent resolution wishing a very happy and joyous 90th birthday to the member from Burlington, Representative William Aswad.

H.C.R. 240. House concurrent resolution congratulating Barbara Brody on winning a national Teacher of the Year Award for Dedication and Excellence as a Driver Educator.

H.C.R. 241. House concurrent resolution congratulating the 2011 Harwood Union High School Highlanders boys' and girls' cross-country teams on winning their respective Division II state championships.

H.C.R. 242. House concurrent resolution congratulating the 2011 Harwood Union High School Highlanders Division II field hockey team.

Adjournment

At one o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, January 26, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Patrice Goodwin of the United Methodist Church, Jericho, VT.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Savage of Swanton**, the rules were

suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 595

By Rep. Till of Jericho,
House bill, entitled
An act relating to allowing 16-year-olds to donate blood;
To the committee on Health Care.

H. 596

By Rep. Myers of Essex,
House bill, entitled
An act relating to authorizing gravel removal by municipalities;
To the committee on Fish, Wildlife & Water Resources.

H. 597

By Reps. Buxton of Tunbridge, Degree of St. Albans City, Pearson of Burlington, Ram of Burlington, Trieber of Rockingham, Young of Glover and Zagar of Barnard,

House bill, entitled

An act relating to allowing a taxpayer to claim a renter rebate for a portion of a taxable year;

To the committee on Ways and Means.

H. 598

By Reps. Campion of Bennington, Buxton of Tunbridge, Stuart of Brattleboro and Trieber of Rockingham,

House bill, entitled

An act relating to an exemption from Vermont's meals tax for nonprofit institutions;

To the committee on Ways and Means.

H. 599

By Rep. Frank of Underhill,

House bill, entitled

An act relating to license plates commemorating military valor awards;

To the committee on Transportation.

H. 600

By Rep. Grad of Moretown,

House bill, entitled

An act relating to mandatory mediation in foreclosure proceedings;

To the committee on Judiciary.

H. 601

By Rep. Kitzmiller of Montpelier,

House bill, entitled

An act relating to insurance coverage for cancer screenings;

To the committee on Health Care.

H. 602

By Reps. Till of Jericho, Bouchard of Colchester, Cheney of Norwich, Consejo of Sheldon, Eckhardt of Chittenden, Greshin of Warren, Keenan of St. Albans City, Reis of St. Johnsbury, Savage of Swanton, Waite-Simpson of Essex, Wilson of Manchester and Wizowaty of Burlington,

House bill, entitled

An act relating to eliminating required insurance coverage for prostate cancer screening;

To the committee on Health Care.

H. 603

By Reps. Till of Jericho, Copeland-Hanzas of Bradford, Dakin of Chester, Eckhardt of Chittenden, Fisher of Lincoln, Koline of Dorset, O'Brien of Richmond, Pearson of Burlington, Spengler of Colchester and Woodward of Johnson,

House bill, entitled

An act relating to uniform prior authorization request forms;

To the committee on Health Care.

H. 604

By Reps. Till of Jericho, Acinapura of Brandon, Bouchard of Colchester, Browning of Arlington, Cheney of Norwich, Christie of Hartford, Clarkson of Woodstock, Courcelle of Rutland City, Dakin of Chester, Degree of St. Albans

City, Ellis of Waterbury, Evans of Essex, French of Shrewsbury, Johnson of South Hero, Keenan of St. Albans City, Kupersmith of South Burlington, Lorber of Burlington, Macaig of Williston, Malcolm of Pawlet, Martin of Wolcott, Miller of Shaftsbury, Mook of Bennington, Mrowicki of Putney, Myers of Essex, Nuovo of Middlebury, O'Brien of Richmond, O'Sullivan of Burlington, Reis of St. Johnsbury, Savage of Swanton, South of St. Johnsbury, Toll of Danville, Townsend of Randolph, Waite-Simpson of Essex, Webb of Shelburne, Winters of Williamstown, Yantachka of Charlotte and Zagar of Barnard,

House bill, entitled

An act relating to student athletes with suspected head injuries;

To the committee on Health Care.

H. 605

By Rep. Grad of Moretown,

House bill, entitled

An act relating to a decrease in a school district's equalized pupil count because of Tropical Storm Irene;

To the committee on Ways and Means.

H. 606

By Rep. Branagan of Georgia,

House bill, entitled

An act relating to the creation of an independent office of taxpayer appeals;

To the committee on Ways and Means.

H. 607

By Reps. Wizowaty of Burlington, Buxton of Tunbridge, Davis of Washington, Deen of Westminster, Donovan of Burlington, Edwards of Brattleboro, French of Shrewsbury, French of Randolph, Lippert of Hinesburg, Malcolm of Pawlet, Moran of Wardsboro, Mrowicki of Putney, Pearson of Burlington, Ram of Burlington and Zagar of Barnard,

House bill, entitled

An act relating to transferring an inmate to an out-of-state correctional facility;

To the committee on Corrections and Institutions.

H. 608

By Reps. Buxton of Tunbridge, Degree of St. Albans City and Ram of Burlington,

House bill, entitled

An act relating to reporting lost or stolen prescription drugs;

To the committee on Health Care.

H. 609

By Rep. Wizowaty of Burlington,

House bill, entitled

An act relating to the disparity between cocaine and crack cocaine;

To the committee on Judiciary.

H. 610

By Rep. Buxton of Tunbridge,

House bill, entitled

An act relating to the sale of invasive plants;

To the committee on Agriculture.

H. 611

By Reps. Sweaney of Windsor, Hubert of Milton and Martin of Wolcott,

House bill, entitled

An act relating to public records act exemptions;

To the committee on Government Operations.

H. 612

By Rep. Lippert of Hinesburg,

House bill, entitled

An act relating to authorizing arbitration for unit owners of condominiums and common interest communities;

To the committee on Commerce and Economic Development.

H. 613

By Rep. Emmons of Springfield,

House bill, entitled

An act relating to governance of the Community High School of Vermont ;

To the committee on Education.

H. 614

By Reps. Potter of Clarendon, Bissonnette of Winooski, Bohi of Hartford, Courcelle of Rutland City and Mrowicki of Putney,

House bill, entitled

An act relating to licensing procedures for older drivers;

To the committee on Transportation.

H. 615

By Rep. Till of Jericho,

House bill, entitled

An act relating to improving the oral health of Vermonters;

To the committee on Health Care.

Bill Amended; Third Reading Ordered

H. 59

Rep. Stevens of Waterbury, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to unfair housing practices

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

* * *

(12) To discriminate in land use decisions or in the permitting of housing because of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, disability, the presence of one or more minor children, or receipt of public assistance, or, except as otherwise provided by law, the fact that the housing contains affordable housing units for families or individuals with incomes at or below 80 percent of the area median income.

* * *

Sec. 2. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw, nor its application by an appropriate municipal panel under this chapter, shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title, or discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

* * *

The bill was taken up, read the second time and the report of the committee on General, Housing and Military Affairs agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 449

Rep. Lewis of Derby, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to the designation of brook trout and walleye pike as the state fish of Vermont

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) there are two fish in Vermont that are high quality, handsome game fish.

(2) these fish are representative of Vermont's reputation for clean water and fine fishing.

(3) these two fish symbolize both the icy cold mountain streams and the warmer lakes within the state, and the fine fishing available in both.

(4) the designation of these two fish is in recognition of the students of Cornwall Elementary School, whose efforts resulted in a Joint Resolution,

approved by the General Assembly, May 3, 1978 (J.R.S. 41), designating the two state fish.

Sec. 2. 1 V.S.A. § 501 is amended to read:

§ 501. ~~{Omitted.}~~ STATE FISH

The state cold water fish shall be the brook trout (*salvelinus fontinalis*) and the state warm water fish shall be the walleye pike (*sander vitreus*).

Sec. 3 EFFECTIVE DATE

This act shall take effect upon passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Fish, Wildlife & Water Resources agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 552

Rep. Ralston of Middlebury, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to payment of workers' compensation benefits by electronic payroll card

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At one o'clock and forty-five minutes in the afternoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, January 27, 2012

Rep, Leriche of Hardwick in Chair.

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Father Michael Augustinowicz of St. Augustine's Church, Montpelier, VT.

Message from the Senate No. 8

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 249. An act relating to Vermont Strong commemorative motor vehicle plates.

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

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

H. 515. An act relating to holding public agencies harmless for disclosure of property tax adjustment information.

And has passed the same in concurrence.

The Senate has considered joint resolution originating in the House of the following title:

J.R.H. 20. Joint resolution authorizing 2012 Green Mountain Boys' State to conduct a civic education program at the State House.

And has adopted the same in concurrence.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 616

By Reps. Deen of Westminster, Degree of St. Albans City, Fagan of Rutland City, Krebs of South Hero, Lewis of Derby, McCullough of Williston, Munger of South Burlington and Webb of Shelburne,

House bill, entitled

An act relating to a wholesale bait dealer's permit and a fee for use of nonbiodegradable containers;

To the committee on Fish, Wildlife & Water Resources.

H. 617

By Rep. Dickinson of St. Albans Town,

House bill, entitled

An act relating to licensed alcohol and drug abuse counselors as Medicaid participating providers;

To the committee on Human Services.

H. 619

By Reps. Scheuermann of Stowe, Branagan of Georgia, Canfield of Fair Haven, Dickinson of St. Albans Town, Greshin of Warren, Hebert of Vernon, Howard of Cambridge, Johnson of Canaan, Kitzmiller of Montpelier, Komline of Dorset, Lawrence of Lyndon, Marcotte of Coventry, Olsen of Jamaica, Ralston of Middlebury, Russell of Rutland City, South of St. Johnsbury and Young of Glover,

House bill, entitled

An act relating to supporting manufacturing and industry;

To the committee on Commerce and Economic Development.

H. 620

By Reps. McCullough of Williston, Burke of Brattleboro, Christie of Hartford, Conquest of Newbury, Courcelle of Rutland City, Deen of Westminster, Degree of St. Albans City, Edwards of Brattleboro, Fagan of Rutland City, Fisher of Lincoln, Frank of Underhill, French of Shrewsbury, French of Randolph, Gilbert of Fairfax, Heath of Westford, Keenan of St. Albans City, Krebs of South Hero, Lanpher of Vergennes, Lenes of Shelburne, Lewis of Derby, Macaig of Williston, Manwaring of Wilmington, Masland of Thetford, Mrowicki of Putney, Munger of South Burlington, O'Sullivan of Burlington, Pearson of Burlington, Peltz of Woodbury, Potter of Clarendon, Russell of Rutland City, Stuart of Brattleboro, Taylor of Barre City, Till of Jericho, Trieber of Rockingham, Waite-Simpson of Essex, Webb of Shelburne and Yantachka of Charlotte,

House bill, entitled

An act relating to school crossing guards;

To the committee on Transportation.

H. 621

By Reps. Olsen of Jamaica, Acinapura of Brandon, Ancel of Calais,

Batchelor of Derby, Botzow of Pownal, Bouchard of Colchester, Branagan of Georgia, Brennan of Colchester, Browning of Arlington, Burke of Brattleboro, Buxton of Tunbridge, Canfield of Fair Haven, Cheney of Norwich, Christie of Hartford, Clark of Vergennes, Clarkson of Woodstock, Condon of Colchester, Corcoran of Bennington, Crawford of Burke, Dakin of Chester, Deen of Westminster, Degree of St. Albans City, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Donovan of Burlington, Eckhardt of Chittenden, Edwards of Brattleboro, Fagan of Rutland City, Fisher of Lincoln, French of Shrewsbury, Greshin of Warren, Hebert of Vernon, Helm of Fair Haven, Howard of Cambridge, Hubert of Milton, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Johnson of Canaan, Klein of East Montpelier, Koch of Barre Town, Komline of Dorset, Krebs of South Hero, Larocque of Barnet, Lawrence of Lyndon, Lenes of Shelburne, Leriche of Hardwick, Lippert of Hinesburg, Lorber of Burlington, Manwaring of Wilmington, Masland of Thetford, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Mook of Bennington, Myers of Essex, Nuovo of Middlebury, Pearce of Richford, Pearson of Burlington, Peaslee of Guildhall, Perley of Enosburgh, Poirier of Barre City, Pugh of South Burlington, Ram of Burlington, Reis of St. Johnsbury, Savage of Swanton, Scheuermann of Stowe, Shand of Weathersfield, Sharpe of Bristol, Shaw of Pittsford, Smith of New Haven, Smith of Morristown, Spengler of Colchester, Stevens of Shoreham, Strong of Albany, Sweaney of Windsor, Taylor of Barre City, Till of Jericho, Townsend of Randolph, Trieber of Rockingham, Wilson of Manchester, Winters of Williamstown, Yantachka of Charlotte and Young of Glover,

House bill, entitled

An act relating to the Richard W. Hube Jr. memorial bridge in Jamaica;

To the committee on Transportation.

H. 622

By Reps. Emmons of Springfield and Martin of Springfield,

House bill, entitled

An act relating to the labeling of roll-off dumpsters;

To the committee on Transportation.

H. 623

By Reps. Young of Glover, Buxton of Tunbridge, Donaghy of Poultney, Komline of Dorset, Larocque of Barnet, Olsen of Jamaica, Pearson of Burlington, Peltz of Woodbury, Ralston of Middlebury, Ram of Burlington,

Scheuermann of Stowe, Trieber of Rockingham and Zagar of Barnard,

House bill, entitled

An act relating to vinous or malt beverage tastings;

To the committee on General, Housing and Military Affairs.

H. 624

By Reps. Botzow of Pownal, Marcotte of Coventry and Shand of Weathersfield,

House bill, entitled

An act relating to the lending capacity of the Vermont economic development authority;

To the committee on Commerce and Economic Development.

H. 625

By Reps. Olsen of Jamaica, Clarkson of Woodstock, Johnson of South Hero, Ram of Burlington and Wilson of Manchester,

House bill, entitled

An act relating to establishing a social impact bonds study committee;

To the committee on Government Operations.

H. 626

By Reps. Lorber of Burlington and Mrowicki of Putney,

House bill, entitled

An act relating to children of incarcerated fathers;

To the committee on Corrections and Institutions.

H. 627

By Rep. Pugh of South Burlington,

House bill, entitled

An act relating to an opiate addiction treatment system;

To the committee on Human Services.

H. 628

By Rep. Pugh of South Burlington,

House bill, entitled

An act relating to reorganizing and updating Title 33;
To the committee on Human Services.

Senate Bill Referred

S. 249

Senate bill, entitled
An act relating to Vermont Strong commemorative motor vehicle plates
Was read and referred to the committee on Transportation.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 59

House bill, entitled
An act relating to unfair housing practices;

H. 449

House bill, entitled
An act relating to the designation of brook trout and walleye pike as the state fish of Vermont;

H. 552

House bill, entitled
An act relating to payment of workers' compensation benefits by electronic payroll card;

Adjournment

At nine o'clock and fifty minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, January 30, 2012, at ten o'clock in the forenoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 243

House concurrent resolution designating January 20, 2012 as Alzheimer's Awareness Day at the State House;

H.C.R. 244

House concurrent resolution designating nurse anesthetists week in Vermont;

H.C.R. 245

House concurrent resolution honoring the heroic radio coverage and community service of WDEV radio during Tropical Storm Irene and congratulating the broadcaster on its 80th anniversary;

H.C.R. 246

House concurrent resolution congratulating *The Vermont Cynic* on winning a 2011 Pacemaker Award for excellence in college journalism;

H.C.R. 247

House concurrent resolution in memory of Dr. Philip Harold Dunham of Brattleboro;

H.C.R. 248

House concurrent resolution congratulating the Proctor High School Phantoms 2011 Division IV championship girls' soccer team;

H.C.R. 249

House concurrent resolution congratulating the outstanding Vermont high school women runners who participated in the 2011 Nike Cross Nationals competition;

H.C.R. 250

House concurrent resolution honoring former Director of Retirement Policy & Outreach Cynthia Webster;

H.C.R. 251

House concurrent resolution congratulating the Proctor High School Phantoms 2011 Division IV championship boys' soccer team;

S.C.R. 27

Senate concurrent resolution in memory of former Representative John H. Downs;

S.C.R. 28

Senate concurrent resolution celebrating the centennial anniversary of Montpelier City Hall;

S.C.R. 29

Senate concurrent resolution congratulating the 2011 Johnson State College national Division IV championship women's rugby team;

S.C.R. 30

Senate concurrent resolution recognizing the contribution of Kenric A. Kite to the development of public access television in central Vermont;

S.C.R. 31

Senate concurrent resolution honoring Dr. Frank G. Miglorie for his 41 years of service to and outstanding 28-year tenure as President of the College of St. Joseph;

S.C.R. 32

Senate concurrent resolution honoring the public service work of Brattleboro radio station WTSA during Tropical Storm Irene;

S.C.R. 33

Senate concurrent resolution congratulating Rick Cochran of Walden on being named the Vermont and National Small Business Person of the Year;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Monday, January 30, 2012

Rep. Kitzmiller of Montpelier in Chair.

At ten o'clock in the forenoon the Speaker called the House to order.

Committee Bills Introduced

Committee bills of the following titles were severally introduced and under the rule, placed on the Calendar for notice.

H. 629

By the committee on Government Operations,

An act relating to reapportioning the initial districts of the House of Representatives;

H. 630

By the committee on Human Services,

An act relating to reforming Vermont's mental health system.

Bill Referred to Committee on Ways and Means**S. 249**

House bill, entitled

An act relating to Vermont Strong commemorative motor vehicle plates

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Adjournment

At ten o'clock and five minutes in the forenoon, on motion of **Rep. Botzow of Pownal**, the House adjourned until tomorrow at ten o'clock in the forenoon.

Tuesday, January 31, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Peter Plagge of the Waterbury Congregational Church, Waterbury, VT.

Pledge of Allegiance

Page Isabel Colby of Worcester led the House in the Pledge of Allegiance.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 631

By Reps. Koch of Barre Town, Bohi of Hartford, Courcelle of Rutland City, Dickinson of St. Albans Town, Hooper of Montpelier, Hubert of Milton, Masland of Thetford, Savage of Swanton and Turner of Milton,

House bill, entitled

An act relating to insurance reimbursement for ambulance and EMS services;

To the committee on Health Care.

H. 632

By Rep. Lippert of Hinesburg,
House bill, entitled
An act relating to pretrial home detention;
To the committee on Judiciary.

H. 633

By Reps. Lippert of Hinesburg and Wizowaty of Burlington,
House bill, entitled
An act relating to referral to court diversion for driving with a suspended license;
To the committee on Judiciary.

H. 634

By Reps. Wilson of Manchester, Browning of Arlington, Condon of Colchester, Olsen of Jamaica and Ram of Burlington,
House bill, entitled
An act relating to remedies for failure to pay municipal tickets;
To the committee on Judiciary.

H. 635

By Rep. Johnson of Canaan,
House bill, entitled
An act relating to limiting income sensitivity adjustments to the amount of property taxes owed;
To the committee on Ways and Means.

H. 636

By Reps. Johnson of Canaan and Peaslee of Guildhall,
House bill, entitled
An act relating to reimbursements for towns affected by a recent current use decision;
To the committee on Ways and Means.

H. 637

By Reps. Johnson of Canaan, Martin of Wolcott and Sharpe of Bristol,
House bill, entitled

An act relating to tax-exempt property owned by the Vermont Housing
Finance Agency;

To the committee on Ways and Means.

H. 638

By Rep. Wizowaty of Burlington,
House bill, entitled

An act relating to creating a study committee to examine how to encourage
the development and construction of electric charging stations;

To the committee on Ways and Means.

H. 639

By Reps. Wilson of Manchester, Cheney of Norwich, Hooper of Montpelier
and Masland of Thetford,

House bill, entitled

An act relating to the taxation of online retailers;

To the committee on Ways and Means.

H. 640

By Reps. Manwaring of Wilmington, Bohi of Hartford, Botzow of Pownal,
Campion of Bennington, Christie of Hartford, Clarkson of Woodstock, Condon
of Colchester, Consejo of Sheldon, Courcelle of Rutland City, Greshin of
Warren, Keenan of St. Albans City, Komline of Dorset, Lanpher of Vergennes,
Lenes of Shelburne, McCullough of Williston, Miller of Shaftsbury, Moran of
Wardsboro, Olsen of Jamaica, Russell of Rutland City, Scheuermann of Stowe,
Stuart of Brattleboro, Waite-Simpson of Essex, Wilson of Manchester and
Yantachka of Charlotte,

House bill, entitled

An act relating to promoting tourism and marketing;

To the committee on Commerce and Economic Development.

H. 641

By Rep. Browning of Arlington,
House bill, entitled
An act relating to customer rights regarding smart meters;
To the committee on Commerce and Economic Development.

H. 642

By Rep. Wilson of Manchester,
House bill, entitled
An act relating to electric residential service rates;
To the committee on Commerce and Economic Development.

H. 643

By Rep. Scheuermann of Stowe,
House bill, entitled
An act relating to commercial building energy standards;
To the committee on Natural Resources and Energy.

H. 644

By Reps. Kupersmith of South Burlington, Marcotte of Coventry and
Savage of Swanton,
House bill, entitled
An act relating to the use of fishing access areas;
To the committee on Fish, Wildlife & Water Resources.

H. 645

By Rep. Grad of Moretown,
House bill, entitled
An act relating to cruelty to children;
To the committee on Judiciary.

H. 646

By Reps. Browning of Arlington, Condon of Colchester, Dickinson of St.
Albans Town, Koch of Barre Town, Shaw of Pittsford, Stevens of Shoreham
and Waite-Simpson of Essex,

House bill, entitled

An act relating to consumer choices in health care;

To the committee on Health Care.

H. 647

By Rep. Lippert of Hinesburg,

House bill, entitled

An act relating to operating a motor vehicle while under the influence of alcohol with a child in the vehicle;

To the committee on Judiciary.

H. 648

By Reps. Turner of Milton and Savage of Swanton,

House bill, entitled

An act relating to disposing of, or better utilizing, vacant state buildings and properties;

To the committee on Government Operations.

H. 649

By Reps. Clark of Vergennes, Lippert of Hinesburg and Savage of Swanton,

House bill, entitled

An act relating to failure to report the death or disappearance of a child;

To the committee on Judiciary.

H. 650

By Reps. Crawford of Burke and Campion of Bennington,

House bill, entitled

An act relating to providing elementary school education;

To the committee on Education.

H. 651

By Rep. Buxton of Tunbridge,

House bill, entitled

An act relating to public funding of approved independent schools;

To the committee on Education.

H. 652

By Reps. Wizowaty of Burlington and Martin of Springfield,

House bill, entitled

An act relating to community justice centers;

To the committee on Judiciary.

H. 653

By Reps. Savage of Swanton, Bouchard of Colchester, Clark of Vergennes, Fagan of Rutland City, McNeil of Rutland Town and Shaw of Pittsford,

House bill, entitled

An act relating to criminal record checks and fingerprinting of employees of child care facilities and vulnerable adult facilities;

To the committee on Human Services.

H. 654

By Reps. Canfield of Fair Haven, Branagan of Georgia, Browning of Arlington, Dickinson of St. Albans Town, Donaghy of Poultney, Hebert of Vernon, Helm of Fair Haven, Larocque of Barnet, Lewis of Derby, McNeil of Rutland Town, Olsen of Jamaica, Shaw of Pittsford and Turner of Milton,

House bill, entitled

An act relating to disturbing a funeral service;

To the committee on Judiciary.

H. 655

By Reps. Canfield of Fair Haven, Branagan of Georgia, Browning of Arlington, Dickinson of St. Albans Town, Grad of Moretown and Hebert of Vernon,

House bill, entitled

An act relating to moose permits for veterans;

To the committee on Fish, Wildlife & Water Resources.

H. 656

By Rep. Haas of Rochester,

House bill, entitled

An act relating to automated external defibrillators in nursing homes;

To the committee on Human Services.

H. 657

By Reps. Savage of Swanton, Bouchard of Colchester, Canfield of Fair Haven, Clark of Vergennes, Fagan of Rutland City, McNeil of Rutland Town and Shaw of Pittsford,

House bill, entitled

An act relating to establishing an aggravated DUI offense;

To the committee on Judiciary.

H. 658

By Reps. Savage of Swanton and Bouchard of Colchester,

House bill, entitled

An act relating to parental consent to mental health treatment of minors under age 18;

To the committee on Human Services.

H. 659

By Reps. Botzow of Pownal and Ellis of Waterbury,

House bill, entitled

An act relating to state website auditing;

To the committee on Commerce and Economic Development.

H. 660

By Reps. Buxton of Tunbridge, Koch of Barre Town, Trieber of Rockingham and Young of Glover,

House bill, entitled

An act relating to requiring the names of natural persons in campaign finance reports;

To the committee on Government Operations.

H. 661

By Reps. Marcotte of Coventry, Botzow of Pownal, Kitzmiller of Montpelier, Kupersmith of South Burlington, Ralston of Middlebury, Russell of Rutland City, Scheuermann of Stowe, Shand of Weathersfield and Young of Glover,

House bill, entitled

An act relating to portable electronics insurance;
To the committee on Commerce and Economic Development.

H. 662

By Reps. Olsen of Jamaica and Ram of Burlington,
House bill, entitled

An act relating to limiting legislative sessions;
To the committee on Government Operations.

H. 663

By Reps. Canfield of Fair Haven, Branagan of Georgia, Dickinson of St. Albans Town, Grad of Moretown, Hebert of Vernon and Helm of Fair Haven,

House bill, entitled

An act relating to a veteran designation on motor vehicle licenses;
To the committee on Transportation.

H. 664

By Rep. Olsen of Jamaica,
House bill, entitled

An act relating to secondary public and independent school choice;
To the committee on Education.

H. 665

By Reps. Marcotte of Coventry, Batchelor of Derby, Kilmartin of Newport City, Lewis of Derby and McNeil of Rutland Town,

House bill, entitled

An act relating to the naturopathic formulary and advertising practices of naturopathic physicians;

To the committee on Health Care.

H. 666

By Reps. Pearson of Burlington, Komline of Dorset, Poirier of Barre City and Till of Jericho,

House bill, entitled

An act relating to reducing the cost shift;
To the committee on Health Care.

H. 667

By Reps. Lorber of Burlington, Bohi of Hartford, Burke of Brattleboro, Cheney of Norwich, Courcelle of Rutland City, Davis of Washington, Hooper of Montpelier, Klein of East Montpelier, Lanpher of Vergennes, Lenes of Shelburne, Macaig of Williston, McCullough of Williston and Ram of Burlington,

House bill, entitled

An act relating to bicycle racks at state buildings;

To the committee on Government Operations.

H. 668

By Reps. Gilbert of Fairfax, Andrews of Rutland City, Atkins of Winooski, Bohi of Hartford, Branagan of Georgia, Christie of Hartford, Consejo of Sheldon, Courcelle of Rutland City, Degree of St. Albans City, Dickinson of St. Albans Town, Howrigan of Fairfield, Keenan of St. Albans City, Koch of Barre Town, Komline of Dorset, Kupersmith of South Burlington, Lanpher of Vergennes, Larocque of Barnet, Lenes of Shelburne, Macaig of Williston, Martin of Springfield, McAllister of Highgate, Mook of Bennington, Mrowicki of Putney, Pearce of Richford, Pearson of Burlington, Perley of Enosburgh, Ralston of Middlebury, Ram of Burlington, Savage of Swanton, Scheuermann of Stowe, Shaw of Pittsford, Spengler of Colchester, Stevens of Shoreham, Stuart of Brattleboro, Townsend of Randolph, Waite-Simpson of Essex, Webb of Shelburne and Young of Glover,

House bill, entitled

An act relating to secondary and postsecondary credit for advanced level coursework;

To the committee on Education.

H. 669

By Rep. Grad of Moretown,

House bill, entitled

An act relating to confidentiality of applications for compensation to the victims' compensation board;

To the committee on Judiciary.

H. 670

By Rep. Fagan of Rutland City,

House bill, entitled

An act relating to the types of facilities for elderly or disabled citizens subject to Vermont's meals and room tax;

To the committee on Ways and Means.

H. 671

By Rep. Olsen of Jamaica,

House bill, entitled

An act relating to the recapture of home weatherization assistance program funds;

To the committee on Human Services.

H. 672

By Reps. Savage of Swanton, Acinapura of Brandon, Andrews of Rutland City, Bouchard of Colchester, Burditt of West Rutland, Canfield of Fair Haven, Clark of Vergennes, Clarkson of Woodstock, Consejo of Sheldon, Courcelle of Rutland City, Devereux of Mount Holly, Dickinson of St. Albans Town, Eckhardt of Chittenden, Fagan of Rutland City, French of Shrewsbury, Gilbert of Fairfax, Greshin of Warren, Hebert of Vernon, Helm of Fair Haven, Johnson of Canaan, Kupersmith of South Burlington, Larocque of Barnet, Lenes of Shelburne, Lewis of Berlin, Lippert of Hinesburg, McNeil of Rutland Town, Myers of Essex, Olsen of Jamaica, Pearce of Richford, Peaslee of Guildhall, Perley of Enosburgh, Russell of Rutland City, Shaw of Pittsford, Townsend of Randolph, Waite-Simpson of Essex and Webb of Shelburne,

House bill, entitled

An act relating to the purchase of prescription drugs;

To the committee on Health Care.

H. 673

By Reps. Frank of Underhill, French of Randolph, Haas of Rochester, Mrowicki of Putney and Pugh of South Burlington,

House bill, entitled

An act relating to surrogate decision-making;

To the committee on Human Services.

H. 674

By Reps. Canfield of Fair Haven, Browning of Arlington, McNeil of

Rutland Town, Savage of Swanton and Till of Jericho,

House bill, entitled

An act relating to pharmacy audits;

To the committee on Health Care.

H. 675

By Reps. Peaslee of Guildhall and Johnson of Canaan,

House bill, entitled

An act relating to highly efficient wood biomass plants and the standard offer program for small renewable energy generation;

To the committee on Natural Resources and Energy.

H. 676

By Rep. Turner of Milton,

House bill, entitled

An act relating to environmental and land use permits;

To the committee on Natural Resources and Energy.

H. 677

By Reps. Turner of Milton and Savage of Swanton,

House bill, entitled

An act relating to transparency in billing for electric power;

To the committee on Natural Resources and Energy.

H. 678

By Reps. Courcelle of Rutland City, Bohi of Hartford and Lanpher of Vergennes,

House bill, entitled

An act relating to reducing the population of uninsured motorists in Vermont;

To the committee on Transportation.

H. 679

By Reps. Cheney of Norwich, Edwards of Brattleboro, Jerman of Essex and Masland of Thetford,

House bill, entitled

An act relating to creating a uniform generation tax for renewable energy plants;

To the committee on Natural Resources and Energy.

H. 680

By Reps. Olsen of Jamaica, Condon of Colchester and Greshin of Warren,

House bill, entitled

An act relating to the simplification of the statewide education property tax by reducing the property component of the tax and adding an income-based education tax;

To the committee on Ways and Means.

H. 681

By Reps. Buxton of Tunbridge, Christie of Hartford, Stuart of Brattleboro and Zagar of Barnard,

House bill, entitled

An act relating to promoting small-scale dairies;

To the committee on Agriculture.

H. 682

By Reps. Turner of Milton and Savage of Swanton,

House bill, entitled

An act relating to requiring a standards-based performance assessment prior to graduation from secondary school;

To the committee on Education.

H. 683

By Rep. Johnson of Canaan,

House bill, entitled

An act relating to encumbrances on title and the marketability of leasehold conveyances and to the division of rents derived from glebe lands;

To the committee on Judiciary.

H. 684

By Reps. Manwaring of Wilmington and Moran of Wardsboro,

House bill, entitled

An act relating to examining how to alter the education funding system and governance structures to ensure equal educational opportunities and improved outcomes for all children;

To the committee on Education.

H. 685

By Reps. Campion of Bennington, Buxton of Tunbridge, Christie of Hartford, Lewis of Berlin, Perley of Enosburgh and Stuart of Brattleboro,

House bill, entitled

An act relating to the mentoring of new teachers;

To the committee on Education.

H. 686

By Reps. Davis of Washington and Winters of Williamstown,

House bill, entitled

An act relating to encouraging agreements among school districts and to the relative powers of school districts and supervisory unions;

To the committee on Education.

H. 687

By Reps. Campion of Bennington, Buxton of Tunbridge, Christie of Hartford, Kupersmith of South Burlington and Stuart of Brattleboro,

House bill, entitled

An act relating to alternative licensing of secondary teachers;

To the committee on Education.

H. 688

By Reps. Campion of Bennington, Buxton of Tunbridge, Christie of Hartford, Lewis of Berlin and Stuart of Brattleboro,

House bill, entitled

An act relating to the assessment of new teachers;

To the committee on Education.

H. 689

By Reps. Turner of Milton and Savage of Swanton,
House bill, entitled

An act relating to reducing income sensitivity adjustments to homestead property taxes;

To the committee on Ways and Means.

H. 690

By Rep. Buxton of Tunbridge,
House bill, entitled

An act relating to tuition paid by a school district that designates a secondary school;

To the committee on Education.

H. 691

By Rep. Marek of Newfane,
House bill, entitled

An act relating to prohibiting collusion as an antitrust violation;

To the committee on Commerce and Economic Development.

H. 692

By Reps. Turner of Milton and Savage of Swanton,
House bill, entitled

An act relating to the repeal of small school grants;

To the committee on Education.

H. 693

By Rep. Browning of Arlington,
House bill, entitled

An act relating to a statewide electric distribution cooperative;

To the committee on Commerce and Economic Development.

H. 694

By Rep. Greshin of Warren,

House bill, entitled

An act relating to franchise agreements;

To the committee on Commerce and Economic Development.

H. 695

By Rep. Turner of Milton,

House bill, entitled

An act relating to dogs;

To the committee on Government Operations.

H. 696

By Reps. Partridge of Windham, Conquest of Newbury, Lawrence of Lyndon, McAllister of Highgate, Stevens of Shoreham, Taylor of Barre City, Trieber of Rockingham and Zagar of Barnard,

House bill, entitled

An act relating to farmer eligibility for the Vermont health access plan;

To the committee on Health Care.

H. 697

By Rep. Turner of Milton,

House bill, entitled

An act relating to teacher quality, teacher assessments, and the state teachers' retirement system of Vermont;

To the committee on Education.

H. 698

By Rep. Turner of Milton,

House bill, entitled

An act relating to guidelines for developing school budgets and to education costs and student performance;

To the committee on Education.

H. 699

By Reps. Russell of Rutland City, Lewis of Derby, Andrews of Rutland City, Botzow of Pownal, Canfield of Fair Haven, Courcelle of Rutland City, Deen of Westminster, Fagan of Rutland City, French of Shrewsbury, Heath of

Westford, Kitzmiller of Montpelier, Kupersmith of South Burlington, Lenex of Shelburne, Marek of Newfane, McNeil of Rutland Town, Munger of South Burlington, Savage of Swanton, Shand of Weathersfield, Sharpe of Bristol, Shaw of Pittsford, Stevens of Shoreham, Townsend of Randolph, Waite-Simpson of Essex, Yantachka of Charlotte and Young of Glover,

House bill, entitled

An act relating to scrap metal processors;

To the committee on Natural Resources and Energy.

H. 700

By Reps. Greshin of Warren and Stevens of Shoreham,

House bill, entitled

An act relating to curbing the spread of invasive plant species;

To the committee on Agriculture.

H. 701

By Rep. Lippert of Hinesburg,

House bill, entitled

An act relating to invasive plants on state grounds;

To the committee on Corrections and Institutions.

H. 702

By Reps. Lorber of Burlington, Campion of Bennington, Lippert of Hinesburg, Russell of Rutland City, Trieber of Rockingham and Wizowaty of Burlington,

House bill, entitled

An act relating to prohibiting discrimination in government contracting;

To the committee on Government Operations.

H. 703

By Rep. Johnson of Canaan,

House bill, entitled

An act relating to reimbursing unified towns and gores for expenses incurred in conducting grievance hearings;

To the committee on Government Operations.

H. 704

By Reps. Partridge of Windham, Conquest of Newbury, Stevens of Shoreham and Trieber of Rockingham,

House bill, entitled

An act relating to allowing the netting of losses in the calculation of household income;

To the committee on Ways and Means.

H. 705

By Reps. Partridge of Windham and Trieber of Rockingham,

House bill, entitled

An act relating to setting values for property tax grievances;

To the committee on Ways and Means.

H. 706

By Reps. Clarkson of Woodstock, Webb of Shelburne, Eckhardt of Chittenden, French of Shrewsbury and Lenexa of Shelburne,

House bill, entitled

An act relating to reducing the sale of stolen property;

To the committee on Judiciary.

H. 707

By Rep. Kupersmith of South Burlington,

House bill, entitled

An act relating to execution of court judgments on personal property ;

To the committee on Judiciary.

H. 708

By Reps. Partridge of Windham and Trieber of Rockingham,

House bill, entitled

An act relating to abolishing adverse possession actions;

To the committee on Judiciary.

H. 709

By Reps. Stevens of Shoreham and Taylor of Barre City,

House bill, entitled

An act relating to disclosure of information to the parents of a child suspected of abusing another child;

To the committee on Human Services.

H. 710

By Reps. Martin of Wolcott and Woodward of Johnson,

House bill, entitled

An act relating to the standard for substantiation of child abuse or neglect;

To the committee on Human Services.

H. 711

By Reps. Buxton of Tunbridge, Stuart of Brattleboro, Young of Glover and Zagar of Barnard,

House bill, entitled

An act relating to animal investigators and sheltering livestock;

To the committee on Agriculture.

H. 712

By Reps. Masland of Thetford, Cheney of Norwich and Christie of Hartford,

House bill, entitled

An act relating to emergency management;

To the committee on Government Operations.

Joint Resolution Adopted

J.R.H. 22

Joint resolution urging each university and college in Vermont to establish offices to assist students who are United States military veterans

Offered by: Representatives Canfield of Fair Haven, Acinapura of Brandon, Andrews of Rutland City, Batchelor of Derby, Bissonnette of Winooski, Bouchard of Colchester, Branagan of Georgia, Brennan of Colchester, Browning of Arlington, Burditt of West Rutland, Buxton of Tunbridge, Cheney of Norwich, Christie of Hartford, Clark of Vergennes, Clarkson of Woodstock, Condon of Colchester, Consejo of Sheldon, Courcelle of Rutland City, Crawford of Burke, Dakin of Chester, Degree of St. Albans

City, Devereux of Mount Holly, Donaghy of Poultney, Donahue of Northfield, Donovan of Burlington, Eckhardt of Chittenden, Edwards of Brattleboro, Evans of Essex, Fagan of Rutland City, French of Shrewsbury, French of Randolph, Grad of Moretown, Head of South Burlington, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell, Hubert of Milton, Jerman of Essex, Johnson of South Hero, Keenan of St. Albans City, Klein of East Montpelier, Koch of Barre Town, Komline of Dorset, Larocque of Barnet, Lawrence of Lyndon, Leriche of Hardwick, Lewis of Berlin, Lorber of Burlington, Macaig of Williston, Malcolm of Pawlet, Marek of Newfane, Martin of Wolcott, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Miller of Shaftsbury, Moran of Wardsboro, Mrowicki of Putney, Myers of Essex, Nuovo of Middlebury, O'Brien of Richmond, Olsen of Jamaica, Pearce of Richford, Perley of Enosburgh, Poirier of Barre City, Potter of Clarendon, Pugh of South Burlington, Ram of Burlington, Reis of St. Johnsbury, Russell of Rutland City, Savage of Swanton, Scheuermann of Stowe, Shaw of Pittsford, Smith of New Haven, South of St. Johnsbury, Stevens of Shoreham, Strong of Albany, Till of Jericho, Toll of Danville, Turner of Milton, Waite-Simpson of Essex, Webb of Shelburne and Yantachka of Charlotte

Whereas, in recent years, a large number of young men and women have served our nation in Iraq and Afghanistan as members of the United States Air Force, Army, Marines, and Navy, as well as National Guard units, and

Whereas, as these military veterans return from the battlefields to civilian life, an important avenue for career development is college studies on either a full- or part-time basis, and

Whereas, although the United States Department of Veterans Affairs and the Vermont Office of Veterans Affairs each provide myriad informational and support services, college students who have served our nation often need immediate access to qualified professionals who can individually assist them with matters related to career and educational options, personal finances, and health care that are unique to veterans, and include navigating through the labyrinth of the United States Department of Veterans Affairs' bureaucracy and the intricacies of the GI Bill, and

Whereas, college students' academic schedules often limit their ability to travel to off-campus locations to visit federal and state offices serving veterans, and

Whereas, these veterans' inquiries and support requirements may have a direct correlation with their lives as students, and an information counselor who is well versed in educational matters would bring a more knowledgeable perspective to questions that may be posed, and

Whereas, encouraging veterans to attend college is both individually and societally beneficial, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges each university and college in Vermont to establish an on-campus veterans affairs office to provide specialized assistance and support to college students who are military veterans, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Governor's Veterans Advisory Council and to each university and college president in Vermont.

Was taken up and adopted on the part of the House.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 531

Rep. Fisher of Lincoln moved that the committee on Health Care be relieved of House bill, entitled

An act relating to prescribing a controlled substance

And that the bill be committed to the committee on Human Services, which was agreed to.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 608

Rep. Fisher of Lincoln moved that the committee on Health Care be relieved of House bill, entitled

An act relating to reporting lost or stolen prescription drugs

And that the bill be committed to the committee on Human Services, which was agreed to.

Bill Amended; Third Reading Ordered

H. 464

Rep. McCullough of Williston, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to hydraulic fracturing wells for natural gas and oil production

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The drilling practice of hydraulic fracturing for natural gas exploration and production uses a variety of chemicals that are injected into natural gas or oil wells.

(2) During hydraulic fracturing, injected chemicals may be introduced into drinking water aquifers.

(3) The agency of natural resources' (ANR's) underground injection control rules provide that no natural gas or oil well proposed for use in hydraulic fracturing will be permitted if injection into the well results in movement of contaminating fluid into underground sources of drinking water.

(4) As ANR's underground injection control rules are implemented currently, an underground injection control permit is not available for hydraulic fracturing because permit applicants are not able to show that contaminating fluid will not move into an underground source of drinking water.

(5) To ensure that the state's underground sources of drinking water remain free of contamination and to formalize ANR's interpretation of the state underground injection control rules, the general assembly should enact a moratorium on the issuance of a permit for the discharge to an underground injection well for conventional or enhanced recovery of natural gas or oil.

Sec. 2. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

(a) Any person who intends to discharge waste into the waters of the state or who intends to discharge into an injection well or who intends to discharge into any publicly owned treatment works any waste which interferes with, passes through without treatment, or is otherwise incompatible with that works or would have a substantial adverse effect on that works or on water quality shall make application to the secretary for a discharge permit. Application shall be made on a form prescribed by the secretary. An applicant shall pay an application fee in accordance with 3 V.S.A. § 2822.

* * *

(h) No permit shall be issued under this section for a discharge into an injection well for conventional or enhanced recovery of natural gas or oil.

Sec. 3. TRANSITION; AGENCY OF NATURAL RESOURCES
RULEMAKING

During the interim between the effective date of this act and July 1, 2015, the agency of natural resources continues to be authorized to exercise its authority under 10 V.S.A. chapter 47 (water pollution control) to adopt or amend rules regulating the discharge of waste into an injection well, including rules regulating discharges into an injection well for oil and gas recovery. The moratorium enacted under this act shall not prohibit or limit the agency of natural resources to amend or adopt rules regulating underground injection control in the state.

Sec. 4. REPEAL

10 V.S.A. § 1263(h) (discharge permit for injection of conventional or enhanced recovery of natural gas or oil) shall be repealed on July 1, 2015.

Sec. 5. AGENCY OF NATURAL RESOURCES REPORT;

UNDERGROUND INJECTION CONTROL RULES

On or before January 15, 2015, the agency of natural resources shall submit to the house committee on fish, wildlife and water resources and the house and senate committees on natural resources and energy a report regarding the status of the agency of natural resources' underground injection control rules. The report shall summarize any amendment to the underground injection control rules, how or if any amendment to the rules regulates enhanced recovery of natural gas or oil, and how, at the time of the report, the agency intends to regulate underground injection control for oil and gas recovery upon repeal of 10 V.S.A. § 1263(h) under Sec. 4 of this act.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

and, after passage, by amending the title to read "An act relating to a moratorium on hydraulic fracturing wells for natural gas and oil production"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Fish, Wildlife & Water Resources agreed to and third reading ordered.

Action on House Resolution Postponed**H.R. 13**

House resolution, entitled

House resolution declaring the inalienable right of all Vermonters to save and grow seeds

Was taken up and pending the reading of the report of the committee on Agriculture, on motion of **Rep. Conquest of Newbury**, action on the resolution was postponed until the next legislative day.

Rules Suspended; Bill Committed**H. 630**

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to reforming Vermont's mental health system;

Appearing on the Calendar for notice was taken up for immediate consideration.

Pending second reading of the bill, on motion of **Rep. Turner of Milton**, the bill was committed to the committee on Corrections and Institutions.

Message from the Senate No. 9

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 507. An act relating to authorizing the city of Burlington to issue in fiscal year 2013 the school bond approved in 2009.

And has passed the same in concurrence.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 43. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Senate has considered joint resolution originating in the House of the following title:

J.R.H. 21. Joint resolution supporting the establishment of the National Women's History Museum in Washington, D.C..

And has adopted the same in concurrence.

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 34. Senate concurrent resolution in memory of former Representative Alice Cook Bassett.

S.C.R. 35. Senate concurrent resolution in memory of Arthur Rush Hogan Jr. of Burlington.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 243. House concurrent resolution designating January 20, 2012 as Alzheimer's Awareness Day at the State House.

H.C.R. 244. House concurrent resolution designating nurse anesthetists week in Vermont.

H.C.R. 245. House concurrent resolution honoring the heroic radio coverage and community service of WDEV radio during Tropical Storm Irene and congratulating the broadcaster on its 80th anniversary.

H.C.R. 246. House concurrent resolution congratulating *The Vermont Cynic* on winning a 2011 Pacemaker Award for excellence in college journalism.

H.C.R. 247. House concurrent resolution in memory of Dr. Philip Harold Dunham of Brattleboro.

H.C.R. 248. House concurrent resolution congratulating the Proctor High School Phantoms 2011 Division IV championship girls' soccer team.

H.C.R. 249. House concurrent resolution congratulating the outstanding Vermont high school women runners who participated in the 2011 Nike Cross Nationals competition.

H.C.R. 250. House concurrent resolution honoring former Director of Retirement Policy & Outreach Cynthia Webster.

H.C.R. 251. House concurrent resolution congratulating the Proctor High School Phantoms 2011 Division IV championship boys' soccer team.

Adjournment

At ten o'clock and thirty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, February 1, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Caleb Abetti of St. Jacob of Alaska Orthodox Church, Northfield, VT.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 713

By Rep. McFaun of Barre Town,

House bill, entitled

An act relating to a sales and use tax exemption for Vermont employers;

To the committee on Ways and Means.

H. 714

By Rep. Turner of Milton,

House bill, entitled

An act relating to funding the state teachers' retirement system of Vermont;

To the committee on Government Operations.

H. 715

By Reps. Pearson of Burlington, Buxton of Tunbridge, Christie of Hartford, Davis of Washington, McCullough of Williston, Moran of Wardsboro, Poirier of Barre City, Ram of Burlington, Wizowaty of Burlington, Woodward of Johnson and Young of Glover,

House bill, entitled

An act relating to the elimination of the gap between Vermont's effective and marginal personal income tax rates;

To the committee on Ways and Means.

H. 716

By Reps. Trieber of Rockingham and Partridge of Windham,
House bill, entitled
An act relating to the appraisal of nonrental residential property;
To the committee on Ways and Means.

H. 717

By Reps. Woodward of Johnson and Pearson of Burlington,
House bill, entitled
An act relating to criminal history record inquiries by an employer;
To the committee on General, Housing and Military Affairs.

H. 718

By Reps. Botzow of Pownal, Kitzmiller of Montpelier, Russell of Rutland City, Scheuermann of Stowe, Shand of Weathersfield and Young of Glover,
House bill, entitled
An act relating to the department of public service and the public service board;
To the committee on Commerce and Economic Development.

H. 719

By Reps. Yantachka of Charlotte, French of Shrewsbury, McCullough of Williston, Russell of Rutland City and Till of Jericho,
House bill, entitled
An act relating to the warranty obligations of suppliers and machinery dealerships;
To the committee on Commerce and Economic Development.

H. 720

By Reps. Scheuermann of Stowe and Dickinson of St. Albans Town,
House bill, entitled
An act relating to requiring a receipt for personal income taxes;
To the committee on Ways and Means.

H. 721

By Reps. Browning of Arlington and Davis of Washington,

House bill, entitled

An act relating to electric industry management, oversight, and transparency;

To the committee on Commerce and Economic Development.

H. 722

By Reps. Webb of Shelburne, Cheney of Norwich, Lanpher of Vergennes, Lenes of Shelburne, Lorber of Burlington, Masland of Thetford, McCullough of Williston, Mrowicki of Putney, Ram of Burlington, Sharpe of Bristol and Taylor of Barre City,

House bill, entitled

An act relating to the labeling of food produced with genetic engineering;

To the committee on Agriculture.

H. 723

By Reps. Savage of Swanton, Bouchard of Colchester and McAllister of Highgate,

House bill, entitled

An act relating to public disclosure of federal grant conditions;

To the committee on Government Operations.

H. 724

By Reps. Pearson of Burlington, Buxton of Tunbridge, Edwards of Brattleboro, McCullough of Williston, Ram of Burlington, Wizowaty of Burlington, Young of Glover and Zagar of Barnard,

House bill, entitled

An act relating to exempting solar generation on flat roofs from municipal bylaws;

To the committee on Government Operations.

H. 725

By Reps. Hubert of Milton, Bouchard of Colchester, Condon of Colchester, Degree of St. Albans City, Fagan of Rutland City, Hebert of Vernon, Lewis of Derby, Myers of Essex, Perley of Enosburgh and Savage of Swanton,

House bill, entitled

An act relating to Act 250 review in towns with plans and zoning bylaws;

To the committee on Natural Resources and Energy.

H. 726

By Reps. Lorber of Burlington, Burke of Brattleboro, Cheney of Norwich, Davis of Washington, Hooper of Montpelier, Klein of East Montpelier, Lenes of Shelburne, Lippert of Hinesburg, Macaig of Williston, Pearson of Burlington and Ram of Burlington,

House bill, entitled

An act relating to restrooms in state buildings;

To the committee on Corrections and Institutions.

H. 727

By Reps. Pearson of Burlington, Buxton of Tunbridge, Christie of Hartford, Deen of Westminster, Lorber of Burlington, Martin of Wolcott, McCullough of Williston, Ram of Burlington and Woodward of Johnson,

House bill, entitled

An act relating to the expansion of Vermont's bottle bill;

To the committee on Natural Resources and Energy.

H. 728

By Reps. Buxton of Tunbridge, Christie of Hartford, Stuart of Brattleboro, Young of Glover and Zagar of Barnard,

House bill, entitled

An act relating to the humane treatment and slaughter of animals;

To the committee on Agriculture.

H. 729

By Reps. Young of Glover, Buxton of Tunbridge, Pearson of Burlington, Ram of Burlington, Scheuermann of Stowe and Trieber of Rockingham,

House bill, entitled

An act relating to the registration and operation of mini-trucks;

To the committee on Transportation.

H. 730

By Rep. Botzow of Pownal,

House bill, entitled

An act relating to miscellaneous consumer protection laws;

To the committee on Commerce and Economic Development.

H. 731

By Reps. Masland of Thetford, Cheney of Norwich, Christie of Hartford, Clarkson of Woodstock, Greshin of Warren, Olsen of Jamaica, Ram of Burlington and Wilson of Manchester,

House bill, entitled

An act relating to innocent purchaser exemption as applied to regional development corporations;

To the committee on Natural Resources and Energy.

H. 732

By Reps. Turner of Milton and Savage of Swanton,

House bill, entitled

An act relating to improving the efficiency and cost-effectiveness of state government;

To the committee on Government Operations.

H. 733

By Reps. French of Shrewsbury, Burke of Brattleboro, Clarkson of Woodstock, Davis of Washington, Edwards of Brattleboro, Marek of Newfane, McCullough of Williston, Stevens of Waterbury, Waite-Simpson of Essex, Wizowaty of Burlington and Yantachka of Charlotte,

House bill, entitled

An act relating to the liability of owners of genetically engineered seed;

To the committee on Agriculture.

H. 734

By Rep. Lippert of Hinesburg,

House bill, entitled

An act relating to inspection of amusement rides;

To the committee on General, Housing and Military Affairs.

H. 735

By Reps. Olsen of Jamaica and Wilson of Manchester,

House bill, entitled

An act relating to discounted premium rates for nonsmokers or smokers participating in a tobacco cessation program;

To the committee on Health Care.

H. 736

By Reps. Lorber of Burlington, Donovan of Burlington, Kitzmiller of Montpelier, Lenes of Shelburne, Masland of Thetford, Miller of Shaftsbury, Mook of Bennington, Moran of Wardsboro, O'Brien of Richmond, Pearson of Burlington, Ram of Burlington, Russell of Rutland City, Till of Jericho, Webb of Shelburne, Wizowaty of Burlington and Zagar of Barnard,

House bill, entitled

An act relating to extending health insurance coverage for autism spectrum disorders;

To the committee on Health Care.

H. 737

By Rep. McFaun of Barre Town,

House bill, entitled

An act relating to a loan repayment program for health care providers and health care educators;

To the committee on Health Care.

H. 738

By Rep. McFaun of Barre Town,

House bill, entitled

An act relating to prescribing ephedrine, pseudoephedrine, or phenylpropanolamine products;

To the committee on Health Care.

H. 739

By Reps. Pearson of Burlington, Buxton of Tunbridge, Cheney of Norwich, Christie of Hartford, Conquest of Newbury, Copeland-Hanzas of Bradford, Davis of Washington, Deen of Westminster, Donovan of Burlington, Eckhardt of Chittenden, Fisher of Lincoln, Haas of Rochester, Johnson of South Hero, Koch of Barre Town, Lippert of Hinesburg, Lorber of Burlington, Manwaring of Wilmington, McCullough of Williston, Moran of Wardsboro, Partridge of Windham, Poirier of Barre City, Ram of Burlington, Stevens of Shoreham, Till of Jericho, Winters of Williamstown, Wizowaty of Burlington, Woodward of Johnson, Wright of Burlington and Young of Glover,

House bill, entitled

An act relating to reporting independent expenditures in elections;

To the committee on Government Operations.

H. 740

By Rep. Lorber of Burlington,

House bill, entitled

An act relating to campaign finance reports;

To the committee on Government Operations.

H. 741

By Rep. Lorber of Burlington,

House bill, entitled

An act relating to a searchable database for campaign finance reports;

To the committee on Government Operations.

H. 742

By Reps. Trieber of Rockingham and Partridge of Windham,

House bill, entitled

An act relating to persons permitted to apply for an early voter absentee ballot;

To the committee on Government Operations.

H. 743

By Rep. Turner of Milton,

House bill, entitled

An act relating to retirement and retiree health benefit plans for state employees and teachers;

To the committee on Government Operations.

H. 744

By Rep. Turner of Milton,

House bill, entitled

An act relating to the management of state government positions;

To the committee on Government Operations.

H. 745

By Rep. Pugh of South Burlington,
House bill, entitled
An act relating to the Vermont prescription monitoring system;
To the committee on Health Care.

H. 746

By Reps. Partridge of Windham and Trieber of Rockingham,
House bill, entitled
An act relating to employment of cosmetologists;
To the committee on General, Housing and Military Affairs.

H. 747

By Rep. Frank of Underhill,
House bill, entitled
An act relating to cigarette manufacturers;
To the committee on Human Services.

H. 748

By Reps. Peaslee of Guildhall, Bissonnette of Winooski, Brennan of Colchester, Burditt of West Rutland, Canfield of Fair Haven, Condon of Colchester, Conquest of Newbury, Helm of Fair Haven, Johnson of Canaan, Kilmartin of Newport City, Lewis of Derby, Masland of Thetford, McAllister of Highgate, Olsen of Jamaica, Poirier of Barre City, Potter of Clarendon and Savage of Swanton,

House bill, entitled
An act relating to all-terrain vehicle registration and operation;
To the committee on Transportation.

H. 749

By Rep. Buxton of Tunbridge,
House bill, entitled
An act relating to utility reconnection and change of account fees;
To the committee on Commerce and Economic Development.

H. 750

By Rep. Kilmartin of Newport City,
House bill, entitled
An act relating to prohibiting abortions in Green Mountain Care;
To the committee on Health Care.

Joint Resolution Adopted in Concurrence**J.R.S. 43**

By Senators Carris and Mullin,
J.R.S. 43. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, February 2, 2012, or, Friday, February 3, 2012, it be to meet again no later than Tuesday, February 7, 2012.

Was taken up read and adopted in concurrence.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

H. 630

House bill, entitled
An act relating to reforming Vermont's mental health system;

S. 249

Senate bill, entitled
An act relating to Vermont Strong commemorative motor vehicle plates.

Resolution Amended and Adopted**H.R. 13**

Rep. Kilmartin of Newport City, for the committee on Agriculture, to which had been referred House resolution, entitled

House resolution declaring the inalienable right of all Vermonters to save and grow seeds;

Reported in favor of its passage when amended by striking all after the title and inserting in lieu thereof the following:

Whereas, the Vermont Constitution declares that all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending of life and liberty, and acquiring, possessing, and protecting property, and

Whereas, the Vermont Constitution declares that the foregoing rights ought not to be violated on any pretence whatsoever, and

Whereas, the basis of human sustenance rests on the Constitutional right of every person to acquire, possess, save, grow, and protect seeds, and

Whereas, the Vermont House of Representatives, the people's house, has an obligation to protect and advance these rights, and

Whereas, the state of Vermont has a proud agricultural heritage of its citizens' acquiring, possessing, growing, saving, and protecting seeds essential for their food security, and

Whereas, protection and advancement of these rights are essential to the liberties and independence of our citizens and the welfare and integrity of our nation, state, and society, now therefore be it

Resolved by the House of Representatives:

That this legislative body declares seed acquiring, possessing, saving, growing, and protecting are the inherent and inalienable rights of each Vermonter, and that these rights shall not be violated on any pretense whatsoever.

The bill, having appeared on the Calendar one day for notice, was taken up and the report of the committee on Agriculture agreed to and the resolution was adopted.

Third Reading; Bill Passed

H. 464

House bill, entitled

An act relating to hydraulic fracturing wells for natural gas and oil production

Was taken up, read the third time and passed.

Bill Read Second Time; Bill Amended and Third Reading Ordered

H. 629

Rep. Sweaney of Windsor spoke for the committee on Government Operations.

House bill entitled

An act relating to reapportioning the initial districts of the house of representatives

Was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Sweaney of Windsor** moved to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 1893 is amended to read:

§ 1893. INITIAL DIVISION

The state is divided into the following initial districts, each of which shall be entitled to the indicated number of representatives:

District	Towns and Cities	Representatives
~~ADDISON-1~~	Middlebury	2
~~ADDISON-2~~	~~Cornwall, Goshen, Hancock, Leicester,~~ Ripton and Salisbury	1
~~ADDISON-3~~	~~Addison, Ferrisburgh, Panton,~~ Vergennes and Waltham	2
~~ADDISON-4~~	~~Bristol Lincoln, Monkton and~~ Starksboro	2
~~ADDISON-5~~	~~Bridport, New Haven and Weybridge~~	1
~~ADDISON-~~		
~~RUTLAND-1~~	~~Orwell, Shoreham, Whiting and Benson~~	1
~~BENNINGTON-1~~	~~Pownal and Woodford~~	1
~~BENNINGTON-2~~	~~Bennington~~	4
~~BENNINGTON-3~~	~~Glastenbury and Shaftsbury~~	1
~~BENNINGTON-4~~	~~Manchester~~	1
~~BENNINGTON-5~~	~~Arlington, Sandgate, Sunderland, and~~ ~~that part of Rupert encompassed~~ ~~within a boundary beginning at the~~ ~~intersection of the New York state~~ ~~line with VT 153; then northeasterly~~ ~~along the centerline of VT 153 to the~~	1

~~intersection with East Street; then
easterly along the centerline of East
Street to the intersection with Kent
Hollow Road; then southerly along the
centerline of Kent Hollow Road to the
Sandgate town line.~~

~~BENNINGTON-~~

~~RUTLAND-1~~	~~Dorset, Landgrove, Peru, Danby and Mount Tabor~~	~~1~~

~~CALEDONIA-1~~	~~Barnet, Ryegate and Waterford~~	~~1~~

~~CALEDONIA-2~~	~~Hardwick, Stannard and Walden~~	~~1~~

~~CALEDONIA-3~~	~~St. Johnsbury~~	~~2~~

~~CALEDONIA-4~~	~~Burke, Lyndon and Sutton~~	~~2~~

~~CALEDONIA-~~

~~WASHINGTON-1~~	~~Danville, Peacham and Cabot~~	~~1~~

~~CHITTENDEN-1~~	~~Charlotte and Hinesburg~~	~~2~~

~~CHITTENDEN-2~~	~~Williston~~	~~2~~

~~CHITTENDEN-3~~	~~Burlington, South Burlington and Winooski~~	~~15~~

~~CHITTENDEN-4~~	~~Richmond~~	~~1~~

~~CHITTENDEN-5~~	~~Shelburne and St. George~~	~~2~~

~~CHITTENDEN-6~~	~~Essex and Westford~~	~~5~~

~~CHITTENDEN-7~~	~~Colchester~~	~~4~~

~~CHITTENDEN-8~~	~~Jericho, Underhill and Bolton~~	~~2~~

~~ESSEX-~~

~~CALEDONIA~~	~~Kirby, Bloomfield, Brunswick, Concord, Granby, Guildhall, Lunenburg, Maidstone and Victory~~	~~1~~

~~ESSEX-~~

~~CALDONIA-~~		

ORLEANS	Newark, Averill, Avery's Gore, Brighton, Canaan, East Haven, Ferdinand, Lemington, Lewis, Norton, Warner's Grant, Warren's Gore and Westmore	1
FRANKLIN 1	Fairfax and Georgia	2
FRANKLIN 2	Fairfield, Fletcher and St. Albans Town	2
FRANKLIN 3	St. Albans City	2
FRANKLIN 4	Bakersfield and Enosburg	1
FRANKLIN 5	Sheldon and Swanton	2
FRANKLIN 6	Berkshire, Franklin, Highgate and Richford	2
GRAND ISLE-		
CHITTENDEN 1	Alburg, Grand Isle, Isle La Motte, North Hero, South Hero and Milton	4
LAMOILLE 1	Stowe	1
LAMOILLE 2	Hyde Park and Wolcott	1
LAMOILLE 3	Eden and Johnson	1
LAMOILLE 4	Belvidere, Cambridge and Waterville	1
LAMOILLE-		
WASHINGTON 1	Elmore, Morristown, Woodbury and Worcester	2
ORANGE 1	Chelsea, Corinth, Orange, Vershire, Washington and Williamstown	2
ORANGE 2	Bradford, Fairlee and West Fairlee	1
ORANGE-		
ADDISON 1	Braintree, Brookfield, Randolph and Granville	2
ORANGE-		

CALEDONIA-1	Groton, Newbury and Topsham	1
ORLEANS-1	Brownington, Charleston, Derby, Holland and Morgan	2
ORLEANS-2	Coventry, Irasburg, Newport City and Newport Town	2
ORLEANS-		
CALEDONIA-1	Sheffield, Wheelock, Albany, Barton, Craftsbury, Glover and Greensboro	2
ORLEANS-		
FRANKLIN-1	Jay, Lowell, Troy, Westfield and Montgomery	1
RUTLAND-1	Clarendon, Ira, Poultney, Proctor and West Rutland	3
RUTLAND-2	Castleton, Fair Haven, Hubbardton and West Haven	2
RUTLAND-3	Shrewsbury, Tinmouth and Wallingford	1
RUTLAND-4	Rutland Town	1
RUTLAND-5	Rutland City	4
RUTLAND-6	Pittsford and Sudbury	1
RUTLAND-7	Brandon	1
RUTLAND-8	Middletown Springs, Pawlet, Wells and that part of Rupert not in BENNINGTON-5	1
RUTLAND-		
WINDSOR-1	Chittenden, Killington, Mendon and Bridgewater	1
WASHINGTON-1	Fayston, Waitsfield and Warren	1
WASHINGTON-2	Moretown, Northfield and Roxbury	2
WASHINGTON-3	Barre City and Berlin	3
WASHINGTON-4	Barre Town	2

WASHINGTON-5	Montpelier	2
WASHINGTON-6	Calais, Marshfield and Plainfield	1
WASHINGTON-7	East Montpelier and Middlesex	1
WASHINGTON-		
CHITTENDEN-1	Waterbury, Duxbury, Buel's Gore and Huntington	2
WINDHAM-1	Guilford and Vernon	1
WINDHAM-2	Halifax, Whitingham and Wilmington	1
WINDHAM-3	Brattleboro	3
WINDHAM-4	Athens, Brookline, Grafton, Rockingham, Windham plus that part of Westminster encompassed within a boundary beginning at the intersection of the Rockingham town line with Interstate 91; then southeasterly along the centerline of Interstate 91 to the intersection with the Saxtons River; then easterly along the centerline of the Saxtons River until the intersection with Saxtons River Road (Vt 121); then southeasterly along the centerline of Saxtons River Road until the intersection with Church Avenue; this easterly along the centerline of Church Avenue until the intersection with Saxtons River Road; then northerly along the centerline of Saxtons River Road until the intersection of Forest Road; then	2

	southerly along the centerline of Forest Road to the intersection with the Saxtons River; then northeasterly along the centerline of the Saxtons River to the intersection with the Connecticut River.	
WINDHAM-5	Dummerston, Putney and that part of Westminster not in WINDHAM-4	2
WINDHAM-6	Marlboro, Newfane and Townshend	1
WINDHAM-		
BENNINGTON-1	Readsboro, Searsburg, Stamford, Dover, Somerset and Wardsboro	1
WINDHAM-		
BENNINGTON-		
WINDSOR-1	Winhall, Jamaica, Londonderry, Stratton and Weston	1
WINDSOR-1	Andover, Baltimore, Chester and Springfield	3
WINDSOR-2	Cavendish and Weathersfield	1
WINDSOR-3	Windsor	1
WINDSOR-4	Hartland and West Windsor	1
WINDSOR-5	Reading and Woodstock	1
WINDSOR-6	Barnard, Hartford and Pomfret	3
WINDSOR-		
ORANGE-1	Royalton and Tunbridge	1
WINDSOR-		
ORANGE-2	Sharon, Stratford, Thetford and Norwich	2
WINDSOR-		
RUTLAND-1	Mount Holly, Ludlow and Plymouth	1

WINDSOR-

<u>RUTLAND-2</u>	<u>Pittsfield, Bethel, Rochester and Stockbridge</u>	<u>1</u>
<u>ADDISON-1</u>	<u>Middlebury</u>	<u>2</u>
<u>ADDISON-2</u>	<u>Cornwall, Goshen, Hancock, Leicester, Ripton, and Salisbury</u>	<u>1</u>
<u>ADDISON-3</u>	<u>Addison, Ferrisburgh, Panton, Vergennes, and Waltham</u>	<u>2</u>
<u>ADDISON-4</u>	<u>Bristol, Lincoln, Monkton, and Starksboro</u>	<u>2</u>
<u>ADDISON-5</u>	<u>Bridport, New Haven, and Weybridge</u>	<u>1</u>
<u>ADDISON-</u>		
<u>RUTLAND</u>	<u>Benson, Orwell, Shoreham, and Whiting</u>	<u>1</u>
<u>BENNINGTON-1</u>	<u>Pownal and Woodford</u>	<u>1</u>
<u>BENNINGTON-2-1</u>	<u>That portion of the town of Bennington not included in BENNINGTON-2-2</u>	<u>2</u>
<u>BENNINGTON-2-2</u>	<u>That portion of the town of Bennington encompassed within a boundary beginning at the point where the boundary line of Bennington and Pownal intersects with VT Route 7; then northerly along the eastern side of the centerline of VT 7 to the intersection of Monument Avenue; then northerly along the eastern side of the centerline of Monument Avenue to the intersection of Dewey Street; then northerly along the eastern side of the centerline of Dewey Street to the intersection of West Main Street; then southeasterly on the southern side of the centerline of West Main Street to the intersection of North Street; then northerly along the eastern side of the centerline of North Street to the intersection of County Street; then easterly along the southern side of the centerline of County Street to the intersection of Park Street; then northerly along the eastern side of the centerline of Park Street to the intersection with Roaring Branch River; then</u>	

	<u>easterly along the centerline of the river to the intersection with VT Route 9; then easterly along the southern side of the centerline of VT 9 to the boundary of the town of Woodford; then southerly along the Woodford town line to the boundary of the town of Pownal; then westerly along the Pownal town line to the point of beginning</u>	<u>2</u>
<u>BENNINGTON-3</u>	<u>Arlington, Glastenbury, Sandgate, Shaftsbury, Stratton, Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the centerline of VT 153 to the intersection of East Street; then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road; then southerly along the western side of the centerline of Kent Hollow Road to the boundary of the town of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning</u>	<u>2</u>
<u>BENNINGTON-4</u>	<u>Manchester</u>	<u>1</u>
<u>BENNINGTON-</u>		
<u>RUTLAND</u>	<u>Danby, Dorset, Landgrove, Mount Tabor, and Peru</u>	<u>1</u>
<u>CALEDONIA-1</u>	<u>Barnet, Ryegate, and Waterford</u>	<u>1</u>
<u>CALEDONIA-2</u>	<u>Hardwick, Stannard, and Walden</u>	<u>1</u>
<u>CALEDONIA-3</u>	<u>St. Johnsbury</u>	<u>2</u>
<u>CALEDONIA-4</u>	<u>Burke, Lyndon, and Sutton</u>	<u>2</u>
<u>CALEDONIA-</u>		
<u>WASHINGTON</u>	<u>Cabot, Danville, and Peacham</u>	<u>1</u>
<u>CHITTENDEN-1</u>	<u>Richmond</u>	<u>1</u>
<u>CHITTENDEN-2</u>	<u>Williston</u>	<u>2</u>
<u>CHITTENDEN-3</u>	<u>Jericho and Underhill</u>	<u>2</u>
<u>CHITTENDEN-4-1</u>	<u>Charlotte and, in Hinesburg, the following census block 003507: 1039</u>	<u>1</u>

<u>CHITTENDEN-4-2</u>	<u>Hinesburg, except that portion of the town in</u> <u>CHITTENDEN-4-1</u>	<u>1</u>
<u>CHITTENDEN-5</u>	<u>Shelburne and St. George</u>	<u>2</u>
<u>CHITTENDEN-6</u>	<u>Burlington and Winooski</u>	<u>12</u>
<u>CHITTENDEN-7</u>	<u>South Burlington</u>	<u>4</u>
<u>CHITTENDEN-8-1</u>	<u>That portion of the town of Essex not</u> <u>included in CHITTENDEN-8-2 or 8-3</u>	<u>2</u>
<u>CHITTENDEN-8-2</u>	<u>The village of Essex Junction, except the</u> <u>following census block 002601: 1023</u>	<u>2</u>
<u>CHITTENDEN-8-3</u>	<u>Westford and that portion of the town of</u> <u>Essex encompassed within a boundary</u> <u>beginning at the point where the boundary</u> <u>line of Essex and the town of Colchester</u> <u>intersects with Curve Hill Road; then</u> <u>southeasterly along the northern side of the</u> <u>centerline of Curve Hill Road to the intersection</u> <u>of Lost Nation Road; then southeasterly along</u> <u>the northern side of the centerline of Lost Nation</u> <u>Road to the intersection of Old Stage Road; then</u> <u>northerly along the western side of the centerline of</u> <u>Old Stage Road to the intersection of Towers Road;</u> <u>then southeasterly along the northern side of the</u> <u>centerline of Towers Road to the intersection of Clover</u> <u>Drive; then northeasterly along the western side of the</u> <u>centerline of Clover Drive to the intersection with Alder</u> <u>Brook; then southeasterly along the northern side of the</u> <u>centerline of Alder Brook to the intersection with</u> <u>Brown's River Road; then easterly along the</u> <u>northern side of the centerline of Brown's River</u> <u>Road to the intersection of Weed Road; then easterly</u> <u>along the northern side of the centerline of Weed</u> <u>Road to the intersection of Jericho Road; then</u> <u>easterly along the northern side of the centerline</u> <u>of Jericho Road to the boundary of the town of</u> <u>Jericho; then northeasterly along the Jericho town</u> <u>line to the boundary of Westford; then westerly along</u> <u>the Westford town line to the boundary of Colchester;</u> <u>then southwesterly along the Colchester town</u> <u>line to the point of beginning</u>	<u>1</u>

<u>CHITTENDEN-9</u>	<u>Colchester</u>	<u>4</u>
<u>CHITTENDEN-10</u>	<u>Milton, except that portion of the town in GRAND ISLE-CHITTENDEN</u>	<u>2</u>
<u>ESSEX-</u>		
<u>CALEDONIA</u>	<u>Brunswick, Concord, Granby, Guildhall, Kirby, Lunenburg, Maidstone, and Victory</u>	<u>1</u>
<u>ESSEX-</u>		
<u>CALEDONIA-</u>		
<u>ORLEANS</u>	<u>Averill, Avery's Gore, Bloomfield, Brighton, Canaan, East Haven, Ferdinand, Lemington, Lewis, Newark, Norton, Warner's Grant, Warren's Gore, and Westmore</u>	<u>1</u>
<u>FRANKLIN-1</u>	<u>Georgia</u>	<u>1</u>
<u>FRANKLIN-2</u>	<u>Fairfax</u>	<u>1</u>
<u>FRANKLIN-3-1</u>	<u>St. Albans City and that portion of St. Albans Town encompassed within a boundary beginning at the easternmost point where the boundary line of St. Albans City and St. Albans Town intersects with Vermont Route 36, then easterly along the southern side of the centerline of VT 36 to the intersection of Interstate 89; then southerly along the western side of the centerline of Interstate 89 to the boundary of the town of Fairfield; then southwesterly along the Fairfield town line to the point where the boundary lines of St. Albans Town, Fairfield, Fairfax, and Georgia meet; then northwesterly along the boundary of the town of Georgia to the intersection of Vermont Route 7; then northerly along the eastern side of the centerline of VT 7 to the point where the boundary line of St. Albans Town and St. Albans City meets at Parsons Avenue; then counterclockwise along the boundary line of St. Albans Town and St. Albans City to the point of beginning</u>	<u>2</u>
<u>FRANKLIN-3-2</u>	<u>St. Albans Town, except that portion of the town in FRANKLIN-3-1</u>	<u>1</u>
<u>FRANKLIN-4</u>	<u>Sheldon and Swanton</u>	<u>2</u>
<u>FRANKLIN-5</u>	<u>Berkshire, Franklin, Highgate, and Richford</u>	<u>2</u>

<u>FRANKLIN-6</u>	<u>Bakersfield, Fairfield, and Fletcher</u>	<u>1</u>
<u>FRANKLIN-7</u>	<u>Enosburgh and Montgomery</u>	<u>1</u>
<u>GRAND-ISLE-</u>		
<u>CHITTENDEN</u>	<u>Alburgh, Grand Isle, Isle La Motte, North Hero, South Hero, and that portion of the town of Milton encompassed within a boundary beginning at the mouth of the Lamoille River and Lake Champlain; then along the river upstream to the Interstate 89 bridge crossing the Lamoille River; then northerly along the centerline of Interstate 89 to the boundary of the town of Georgia; then along the Georgia town line to Lake Champlain; then southerly along the lakeshore to the point of beginning</u>	<u>2</u>
<u>LAMOILLE-1</u>	<u>Stowe</u>	<u>1</u>
<u>LAMOILLE-2</u>	<u>Belvidere, Hyde Park, Johnson, Wolcott, and that portion of the town of Eden not in ORLEANS-LAMOILLE</u>	<u>2</u>
<u>LAMOILLE-3</u>	<u>Cambridge and Waterville</u>	<u>1</u>
<u>LAMOILLE-</u>		
<u>WASHINGTON</u>	<u>Elmore, Morristown, Woodbury, and Worcester</u>	<u>2</u>
<u>ORANGE-1</u>	<u>Chelsea, Corinth, Orange, Vershire, Washington, and Williamstown</u>	<u>2</u>
<u>ORANGE-2</u>	<u>Bradford, Fairlee, and West Fairlee</u>	<u>1</u>
<u>ORANGE-</u>		
<u>CALEDONIA</u>	<u>Groton, Newbury, and Topsham</u>	<u>1</u>
<u>ORANGE-</u>		
<u>WASHINGTON-</u>		
<u>ADDISON</u>	<u>Braintree, Brookfield, Granville, Randolph, and Roxbury</u>	<u>2</u>
<u>ORLEANS-1</u>	<u>Brownington, Charleston, Derby, Holland, and Morgan</u>	<u>2</u>
<u>ORLEANS-2</u>	<u>Coventry, Irasburg, Newport City, and Newport Town</u>	<u>2</u>

ORLEANS-

<u>CALEDONIA</u>	<u>Albany, Barton, Craftsbury, Glover,</u> <u>Greensboro, Sheffield, and Wheelock</u>	<u>2</u>

ORLEANS-

<u>LAMOILLE</u>	<u>Jay, Lowell, Troy, Westfield, and that portion</u> <u>of the town of Eden that is west of the centerline</u> <u>of Route 100</u>	<u>1</u>

<u>RUTLAND-1</u>	<u>Middletown Springs, Pawlet, Tinmouth, that portion of</u> <u>the town of Wells not in RUTLAND-2, and that</u> <u>portion of the town of Rupert not in BENNINGTON-3</u>	<u>1</u>

<u>RUTLAND-2</u>	<u>Ira, Poultney, and that portion of the town of Wells</u> <u>encompassed within a boundary beginning at the point</u> <u>where the boundary line of Wells and Poultney</u> <u>intersects with West Lake Road; then southerly along</u> <u>the eastern and Lake St. Catherine side of the centerline</u> <u>of West Lake Road to the intersection of VT Route 30;</u> <u>then northerly along the western and Lake St. Catherine</u> <u>side of the centerline of VT 30 to the boundary of</u> <u>Poultney; then westerly along the Poultney town line to</u> <u>the point of beginning</u>	<u>1</u>

<u>RUTLAND-3</u>	<u>Clarendon, Proctor, Wallingford, and West Rutland</u>	<u>2</u>

<u>RUTLAND-4</u>	<u>Castleton, Fair Haven, Hubbardton, and West Haven</u>	<u>2</u>

<u>RUTLAND-5</u>	<u>Rutland Town</u>	<u>1</u>

<u>RUTLAND-6-1</u>	<u>That portion of the City of Rutland encompassed</u> <u>within a boundary beginning at the point where the</u> <u>boundary line of Rutland City and Rutland Town</u> <u>intersects with Lincoln Avenue; then southerly along</u> <u>the eastern side of the centerline of Lincoln Avenue</u> <u>to the intersection of West Street; then easterly along</u> <u>the northern side of the centerline of West Street</u> <u>across North Main Street; then easterly along the</u> <u>northern side of the centerline of Terrill Street to the</u> <u>intersection of Lafayette Street; then southerly along the</u> <u>east side of the centerline of Lafayette Street to the</u>	

intersection of Easterly Avenue; then easterly along the northern side of Easterly Avenue to the intersection of Piedmont Drive; then easterly along the northern side of the centerline of Piedmont Drive to the intersection of Piedmont Parkway; then easterly along the northern side of the centerline of Piedmont Parkway to the intersection of Stratton Road; then southerly along the eastern side of the centerline of Stratton Road to the intersection of Killington Avenue; then easterly along the northern side of the centerline of Killington Avenue, including both sides of Grandview Terrace, to the boundary between Rutland City and Rutland Town; then northerly along the boundary line to its intersection with Gleason Road; then westerly along the southern side of the centerline of Gleason Road to Woodstock Avenue; then following the boundary line back to the point of beginning 1

RUTLAND-6-2

That portion of the City of Rutland encompassed within a boundary beginning at the southernmost point where the boundary line of Rutland City and Rutland Town intersects with South Main Street; then northerly along the eastern side of the centerline of South Main Street to the intersection of Strongs Avenue; then northwesterly along the eastern side of the centerline of Strongs Avenue to the intersection of Prospect Street; then northerly along the eastern side of the centerline of Prospect Street to the intersection of Washington Street; then easterly along the southern side of the centerline of Washington Street to the intersection of Court Street; then northerly along the eastern side of the centerline of Court Street to the intersection of West Street; then easterly along the southern side of the centerline of West Street to the intersection of South Main Street; then east across South Main Street along the southern side of the centerline of Terrill Street to the intersection of Lafayette Street; then southerly along the western side of the centerline of Lafayette Street to the intersection of Easterly Avenue; then easterly along the southern side of the centerline of Easterly Avenue to the intersection of Piedmont Drive; then easterly along the southern side of the centerline of

Piedmont Drive to the intersection of Piedmont Parkway; then easterly along the southern side of the centerline of Piedmont Parkway to the intersection of Stratton Road; then southerly along the western side of the centerline of Stratton Road to the intersection of Killington Avenue; then easterly along the southern side of the centerline of Killington Avenue to the boundary of Rutland City and Rutland Town; then southerly along the city line to the intersection of the city line and South Main Street to the point of beginning 1

RUTLAND-6-3

That portion of the City of Rutland encompassed within a boundary beginning at the point where the boundary line of Rutland City and Rutland Town intersects with South Main Street; then northerly along the western side of the centerline of South Main Street to the intersection of Strongs Avenue; then northwesterly along the western side of the centerline of Strongs Avenue to the intersection of Prospect Street; then northerly along the western side of the centerline of Prospect Street to the intersection of Washington Street; then easterly along the northern side of the centerline of Washington Street to the intersection of Court Street; then northerly along the western side of the centerline of Court Street to the intersection of West Street; then easterly along the northern side of the centerline of West Street to the intersection of Lincoln Avenue; then northerly along the western side of the centerline of Lincoln Avenue to the intersection of Williams Street; then westerly along the southern side of the centerline of Williams Street to the intersection of Grove Street; then northerly along the western side of the centerline of Grove Street to the intersection of Maple Street; then westerly along the southern side of the centerline of Maple Street to the intersection of Pine Street; then southerly along the eastern side of the centerline of Pine Street to the intersection of Robbins Street; then westerly along the southern side of the centerline of Robbins Street to the intersection of Baxter Street; then southerly along the eastern side of the centerline

	<u>of Baxter Street to the intersection of State Street; then westerly along the southern side of the centerline of State Street to the intersection of Cramton Avenue; then southerly along the eastern side of the centerline of Cramton Avenue to the intersection of West Street; then westerly along the southern side of the centerline of West Street to the intersection of Ripley Road; then southerly along the boundary of the Rutland City–Rutland Town line to the intersection of the city line and South Main Street; then to the point of beginning</u>	<u>1</u>
<u>RUTLAND-6-4</u>	<u>That portion of the City of Rutland not located within the boundaries of RUTLAND-6-1, 6-2, or 6-3</u>	<u>1</u>
<u>RUTLAND-7</u>	<u>Brandon, Pittsford, and Sudbury</u>	<u>2</u>
<u>RUTLAND-</u>		
<u>WINDSOR-1</u>	<u>Bridgewater, Chittenden, Killington, and Mendon</u>	<u>1</u>
<u>RUTLAND-</u>		
<u>WINDSOR-2</u>	<u>Ludlow, Mount Holly, and Shrewsbury</u>	<u>1</u>
<u>WASHINGTON-1</u>	<u>Berlin and Northfield</u>	<u>2</u>
<u>WASHINGTON-2</u>	<u>Barre Town</u>	<u>2</u>
<u>WASHINGTON-3</u>	<u>Barre City</u>	<u>2</u>
<u>WASHINGTON-4</u>	<u>Montpelier</u>	<u>2</u>
<u>WASHINGTON-5</u>	<u>East Montpelier and Middlesex</u>	<u>1</u>
<u>WASHINGTON-6</u>	<u>Calais, Marshfield, and Plainfield</u>	<u>1</u>
<u>WASHINGTON-7</u>	<u>Duxbury, Fayston, Moretown, Waitsfield, and Warren</u>	<u>2</u>
<u>WASHINGTON-</u>		
<u>CHITTENDEN</u>	<u>Bolton, Buel’s Gore, Huntington, and Waterbury</u>	<u>2</u>
<u>WINDHAM-1</u>	<u>Guilford and Vernon</u>	<u>1</u>
<u>WINDHAM-2-1</u>	<u>That portion of the town of Brattleboro encompassed within a boundary beginning at the point where the boundary line of Brattleboro and the town of</u>	

Dummerston intersects with Upper Dummerston Road; then southerly along the western side of the centerline of Upper Dummerston Road to the intersection of East Orchard Street; then southerly along the western side of the centerline of East Orchard Street to the intersection of Orchard Street; then southerly along the western side of the centerline of Orchard Street to the intersection of VT Route 9; then westerly along the northern side of the centerline of VT 9 to the intersection of Guilford Street; then southerly along the western side of the centerline of Guilford Street to where the Whetstone Brook crosses; then easterly along the southern side of the centerline of the Whetstone Brook to the intersection with Interstate 91; then southerly along the western side of the centerline of Interstate 91 to the boundary of the town of Guilford; then westerly along the town line of Guilford to the boundary of the town of Marlboro; then northerly along the town line of Marlboro to the boundary of Dummerston; then easterly along the town line of Dummerston to the point of beginning

1

WINDHAM-2-2

That portion of the Town of Brattleboro to the south of a boundary beginning at the Connecticut River at the Whetstone Brook; then westerly along the southern side of the centerline of the Whetstone Brook to the intersection with Elm Street; then northerly along the western side of the centerline of Elm Street to the intersection of Frost Street; then westerly along the southern side of the centerline of Frost Street to Williams Street; then along the southern side of the centerline of Williams Street to Brannan Street; then southerly along the eastern side of the centerline of Brannan Street to the intersection of West Street; then westerly along the southern side of the centerline of West Street to the intersection of Strand Avenue; then southerly along the eastern side of the centerline of Strand Avenue to the intersection of Williams Street; then westerly along the southern side of the centerline of Williams Street past Lamson Street to where the Whetstone Brook crosses; then westerly along

	<u>the southern side of the centerline of the Whetstone Brook to the intersection with Interstate 91; then southerly along the eastern side of the centerline of Interstate 91 to the boundary of the town of Guilford; then easterly along the town line of Guilford to the intersection with the Connecticut River; then northerly along the Connecticut River to the point of beginning</u>	<u>1</u>
<u>WINDHAM-2-3</u>	<u>That portion of the Town of Brattleboro not located in WINDHAM-2-1 or 2-2</u>	<u>1</u>
<u>WINDHAM-3</u>	<u>Athens, Brookline, Grafton, Rockingham, Windham, and that part of Westminster encompassed within a boundary beginning at the intersection of the Rockingham town line with Interstate 91; then southeasterly along the centerline of Interstate 91 to the intersection with the Saxtons River; then easterly along the centerline of the Saxtons River to the intersection with Saxtons River Road (VT 121); then southeasterly along the centerline of Saxtons River Road to the intersection of Church Avenue; then easterly along the centerline of Church Avenue to the intersection of Saxtons River Road; then northerly along the centerline of Saxtons River Road to the intersection of Forest Road; then southerly along the centerline of Forest Road to the intersection with the Saxtons River; then northeasterly along the centerline of the Saxtons River to the intersection with the Connecticut River</u>	<u>2</u>
<u>WINDHAM-4</u>	<u>Dummerston, Putney, and that part of Westminster not in WINDHAM-3</u>	<u>2</u>
<u>WINDHAM-5</u>	<u>Marlboro, Newfane, and that portion of the town of Townshend not in WINDHAM-BENNINGTON</u>	<u>1</u>
<u>WINDHAM-6</u>	<u>Halifax, Whitingham, and Wilmington</u>	<u>1</u>
<u>WINDHAM-BENNINGTON</u>	<u>Dover, Readsboro, Searsburg, Somerset, Stamford, Wardsboro, and that portion of the town of Townshend encompassed within a boundary beginning at the northernmost point</u>	

	<u>where the boundary line of Townshend and the town of Wardsboro intersects with West Hill Road; then northerly along the eastern side and easterly along the southern side of the centerline of West Hill Road to the intersection of State Forest Road; then easterly along the southern side and southerly along the western side of the centerline of State Forest Road to the boundary of the town of Newfane; then westerly along the town line of Newfane to the boundary line of Wardsboro; then northerly along the town line of Wardsboro to the point of beginning</u>	<u>1</u>
<u>WINDHAM-</u>		
<u>BENNINGTON-</u>		
<u>WINDSOR</u>	<u>Jamaica, Londonderry, Weston, and Winhall</u>	<u>1</u>
<u>WINDSOR-1</u>	<u>Hartland, West Windsor, and Windsor</u>	<u>2</u>
<u>WINDSOR-2</u>	<u>Cavendish and Weathersfield</u>	<u>1</u>
<u>WINDSOR-3-1</u>	<u>Andover, Baltimore, Chester, and that portion of the town of Springfield encompassed within a boundary beginning at the point where the boundary line of Springfield and Chester intersects with Route 10; then easterly along the southern side of the centerline of Route 10 to the intersection of Cemetery Road; then easterly along the southern side of the centerline of Cemetery Road to the intersection of School Street; then southerly on the western side of the centerline of School Street to the intersection of Main Street; then easterly on the southern side of the centerline of Main Street to the intersection of Church Street; then southerly along the western side of the centerline of Church Street to the intersection with Great Brook; then southerly along the western side of the centerline of Great Brook to the intersection with Spoonerville Road; then southerly along the western side of the centerline of Spoonerville Road to the boundary line of Chester; then northerly along the Chester town line to the point of beginning</u>	<u>1</u>

<u>WINDSOR-3-2</u>	<u>That portion of the town of Springfield not in WINDSOR-3-1</u>	<u>2</u>
<u>WINDSOR-4-1</u>	<u>Barnard, Pomfret, and that portion of the town of Hartford encompassed within a boundary beginning at the point where the boundary line of Hartford and the town of Norwich intersects with Newton Lane; then southerly along the western side of the centerline of Newton Lane to the intersection of Jericho Street; then westerly along the northern side of the centerline of Jericho Street to the intersection of Dothan Road; then southerly along the western side of the centerline of Dothan Road to the intersection of VT Route 14; then westerly along the northern side of the centerline of VT Route 14 to the intersection of the centerline of Runnels Road and VT Route 14; then at a right angle to a utility pole marked 137T/6 ET&T/3>/136/GMP Corp/156/40030 on the south edge of Route 14; then southerly in a straight line across the White River to the junction of Old River Road and the beginning of Costello Road; then southerly and easterly along the centerline of Costello Road to its end on U.S. Route 4; then westerly along the northern side of the centerline of U.S. Route 4 to the boundary of the town of Hartland; then westerly and northerly along the town line of Hartland to the boundary of Pomfret; then northeasterly along the town line of Pomfret to the boundary of Norwich; then southeasterly along the town line of Norwich to the point of beginning</u>	<u>1</u>
<u>WINDSOR-4-2</u>	<u>That portion of the town of Hartford not located in WINDSOR-4-1</u>	<u>2</u>
<u>WINDSOR-5</u>	<u>Plymouth, Reading, and Woodstock</u>	<u>1</u>
<u>WINDSOR-ORANGE-1</u>	<u>Royalton and Tunbridge</u>	<u>1</u>
<u>WINDSOR-ORANGE-2</u>	<u>Norwich, Sharon, Strafford, and Thetford</u>	<u>2</u>
<u>WINDSOR-RUTLAND</u>	<u>Bethel, Pittsfield, Rochester, and Stockbridge</u>	<u>1</u>

BENNINGTON-5 Glastenbury, Shaftsbury, and that portion of the town of Bennington encompassed within a boundary beginning at the point where the boundary line of Bennington and Shaftsbury intersects with Vermont Route 7A; then southerly along the eastern side of the centerline of VT 7A to the intersection of Houghton Lane; then easterly along the northern side of the centerline of Houghton Lane to the intersection of Vermont Route 7; then northerly along the western side of the centerline of VT 7 to the boundary of Shaftsbury; then easterly along the town line of Shaftsbury to the intersection of East Road; then southerly along the eastern side of the centerline of East Road to the intersection of Crossover Road; then easterly along the northern side of the centerline of Crossover Road to the intersection of Chapel Road; then northerly along the western side of the centerline of Chapel Road to the boundary of Shaftsbury; then westerly along the Shaftsbury town line to the point of beginning 1

Fourth: In Sec. 1, WINDHAM-BENNINGTON-WINDSOR, after “Londonderry,” by inserting “Stratton,”

Pending the question, Shall the bill be amended as offered by Reps. Browning of Arlington and Miller of Shaftsbury? **Rep. Browning of Arlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Reps. Browning of Arlington and Miller of Shaftsbury? was decided in the negative. Yeas, 35. Nays, 106.

Those who voted in the affirmative are:

Bouchard of Colchester	Hebert of Vernon	Reis of St. Johnsbury
Browning of Arlington	Higley of Lowell	Sharpe of Bristol
Burditt of West Rutland	Keenan of St. Albans City	Smith of New Haven
Clark of Vergennes	Kilmartin of Newport City	Spengler of Colchester
Conquest of Newbury	Krebs of South Hero	Stevens of Shoreham
Consejo of Sheldon	Larocque of Barnet	Till of Jericho
Courcelle of Rutland City	Martin of Springfield	Waite-Simpson of Essex
Davis of Washington	Martin of Wolcott	Wilson of Manchester
Devereux of Mount Holly	Miller of Shaftsbury	Woodward of Johnson
Donovan of Burlington	Munger of South Burlington	Yantachka of Charlotte
Eckhardt of Chittenden	Myers of Essex	Young of Glover
Gilbert of Fairfax	Olsen of Jamaica	

Those who voted in the negative are:

Acinapura of Brandon	French of Randolph	Moran of Wardsboro
Ancel of Calais	Grad of Moretown	Mrowicki of Putney
Andrews of Rutland City	Greshin of Warren	Nuovo of Middlebury
Aswad of Burlington	Haas of Rochester	O'Brien of Richmond
Atkins of Winooski	Head of South Burlington	O'Sullivan of Burlington
Bartholomew of Hartland	Helm of Fair Haven	Partridge of Windham
Batchelor of Derby	Hooper of Montpelier	Pearce of Richford
Bissonnette of Winooski	Howard of Cambridge	Pearson of Burlington
Bohi of Hartford	Howrigan of Fairfield	Peltz of Woodbury
Botzow of Pownal	Hubert of Milton	Perley of Enosburgh
Branagan of Georgia	Jerman of Essex	Poirier of Barre City
Brennan of Colchester	Jewett of Ripton	Potter of Clarendon
Burke of Brattleboro	Johnson of Canaan	Pugh of South Burlington
Buxton of Tunbridge	Kitzmiller of Montpelier	Ralston of Middlebury
Campion of Bennington	Klein of East Montpelier	Ram of Burlington
Canfield of Fair Haven	Koch of Barre Town *	Russell of Rutland City
Cheney of Norwich	Komline of Dorset	Savage of Swanton
Christie of Hartford	Kupersmith of South	Scheuermann of Stowe
Clarkson of Woodstock	Burlington	Shand of Weathersfield
Condon of Colchester	Lanpher of Vergennes	Shaw of Pittsford
Copeland-Hanzas of	Lawrence of Lyndon	South of St. Johnsbury
Bradford	Lenes of Shelburne	Stevens of Waterbury
Corcoran of Bennington	Leriche of Hardwick	Strong of Albany
Crawford of Burke	Lewis of Berlin	Stuart of Brattleboro
Dakin of Chester	Lewis of Derby	Sweaney of Windsor
Deen of Westminster	Lippert of Hinesburg	Taylor of Barre City
Dickinson of St. Albans	Lorber of Burlington	Toll of Danville
Town	Macaig of Williston	Townsend of Randolph
Donaghy of Poultney	Malcolm of Pawlet	Trieber of Rockingham
Edwards of Brattleboro	Marcotte of Coventry	Turner of Milton
Ellis of Waterbury	Marek of Newfane	Webb of Shelburne
Emmons of Springfield	Masland of Thetford	Winters of Williamstown
Evans of Essex	McAllister of Highgate	Wizowaty of Burlington
Fagan of Rutland City	McCullough of Williston	Wright of Burlington
Fisher of Lincoln	McFaun of Barre Town	Zagar of Barnard
Frank of Underhill	McNeil of Rutland Town	
French of Shrewsbury	Mook of Bennington	

Those members absent with leave of the House and not voting are:

Degree of St. Albans City	Johnson of South Hero	Peaslee of Guildhall
Donahue of Northfield	Manwaring of Wilmington	
Heath of Westford	Morrissey of Bennington	

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

Although I spoke in debate tentatively in favor of this amendment, I am persuaded by the argument made by the member from Windsor, cautioning against a “ripple effect” of multiple floor amendments. On balance, and out of respect for the difficult work that the committee has done, I vote no.”

Pending the question, Shall the bill be read a third time? **Rep. Leriche of Hardwick** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 138. Nays, 4.

Those who voted in the affirmative are:

Acinapura of Brandon	Eckhardt of Chittenden	Lawrence of Lyndon
Ancel of Calais	Edwards of Brattleboro	Lenes of Shelburne
Andrews of Rutland City	Emmons of Springfield	Leriche of Hardwick
Aswad of Burlington	Evans of Essex	Lewis of Berlin
Atkins of Winooski	Fagan of Rutland City	Lewis of Derby
Bartholomew of Hartland	Fisher of Lincoln	Lippert of Hinesburg
Batchelor of Derby	Frank of Underhill	Lorber of Burlington
Bissonnette of Winooski	French of Shrewsbury *	Macaig of Williston
Bohi of Hartford	French of Randolph	Malcolm of Pawlet
Botzow of Pownal	Gilbert of Fairfax	Manwaring of Wilmington
Bouchard of Colchester	Grad of Moretown	Marcotte of Coventry
Branagan of Georgia	Greshin of Warren	Marek of Newfane
Brennan of Colchester	Haas of Rochester	Martin of Springfield
Burditt of West Rutland	Head of South Burlington	Martin of Wolcott *
Burke of Brattleboro	Heath of Westford	Masland of Thetford
Buxton of Tunbridge	Hebert of Vernon	McAllister of Highgate
Campion of Bennington	Helm of Fair Haven	McCullough of Williston
Canfield of Fair Haven	Higley of Lowell	McFaun of Barre Town
Cheney of Norwich	Hooper of Montpelier	McNeil of Rutland Town
Christie of Hartford	Howard of Cambridge	Mook of Bennington
Clark of Vergennes	Howrigan of Fairfield	Moran of Wardsboro
Clarkson of Woodstock	Hubert of Milton	Mrowicki of Putney
Condon of Colchester	Jerman of Essex	Munger of South Burlington
Consejo of Sheldon *	Jewett of Ripton	Myers of Essex
Copeland-Hanzas of	Johnson of South Hero	Nuovo of Middlebury
Bradford	Johnson of Canaan	O'Brien of Richmond
Corcoran of Bennington	Keenan of St. Albans City	Olsen of Jamaica *
Courcelle of Rutland City	Kilmartin of Newport City	O'Sullivan of Burlington
Crawford of Burke	Kitzmiller of Montpelier	Partridge of Windham
Dakin of Chester	Klein of East Montpelier	Pearce of Richford
Davis of Washington	Koch of Barre Town	Pearson of Burlington
Deen of Westminster	Komline of Dorset	Peltz of Woodbury
Devereux of Mount Holly *	Krebs of South Hero	Perley of Enosburgh
Dickinson of St. Albans	Kupersmith of South	Poirier of Barre City
Town	Burlington	Potter of Clarendon
Donaghy of Poultney	Lanpher of Vergennes	Pugh of South Burlington
Donovan of Burlington	Larocque of Barnet	Ralston of Middlebury

Ram of Burlington	Spengler of Colchester	Turner of Milton *
Reis of St. Johnsbury	Stevens of Shoreham	Waite-Simpson of Essex
Russell of Rutland City	Strong of Albany	Webb of Shelburne
Savage of Swanton	Stuart of Brattleboro	Wilson of Manchester
Scheuermann of Stowe	Sweaney of Windsor	Winters of Williamstown
Shand of Weathersfield	Taylor of Barre City	Wizowaty of Burlington
Sharpe of Bristol	Till of Jericho	Wright of Burlington
Shaw of Pittsford	Toll of Danville	Yantachka of Charlotte
Smith of New Haven	Townsend of Randolph	Young of Glover
South of St. Johnsbury	Trieber of Rockingham	Zagar of Barnard

Those who voted in the negative are:

Ellis of Waterbury *	Stevens of Waterbury *
Miller of Shaftsbury	Woodward of Johnson

Those members absent with leave of the House and not voting are:

Browning of Arlington	Degree of St. Albans City	Morrissey of Bennington
Conquest of Newbury	Donahue of Northfield	Peaslee of Guildhall

Rep. Consejo of Sheldon explained his vote as follows:

“Mr. Speaker:

Today we made history and we made it all together. This is a true measure of the quality of members of this body, and a road map for the rest of the country on how this can be done.”

Rep. Devereux of Mount Holly explained his vote as follows:

“Mr. Speaker:

My yes vote reflects the hard work of our committee. I hope many of you will understand why I am not completely happy with the final result. I am also losing the birthplace of Calvin Coolidge.”

Rep. Ellis of Waterbury explained her vote as follows:

“Mr. Speaker:

Waterbury and Duxbury share a school district, water services, sewer services and fire services. The chair of the Waterbury Development Review Board lives in Duxbury, and the Executive Director of Revitalizing Waterbury lives in Duxbury. Waterbury is the social and commercial hub of Duxbury, and together the two communities responded to tropical storm Irene. Our social and political ties are strong. There is a simple fix. Waterbury and Duxbury should therefore remain together in the same legislative district.”

Rep. French of Shrewsbury explained his vote as follows:

“Mr. Speaker:

Voting on this plan created a dilemma for me. By voting yes, am I telling my hometown and my many friends in Wallingford and Tinmouth that I’m in favor of a change that Shrewsbury doesn’t necessarily like and that I’m okay with leaving my other towns. On the other hand, by voting no, am I sending a message to my possible new towns of Mt. Holly and Ludlow that I’m not happy about the prospect of serving them. My yes vote reflects the reality that it isn’t about me. It’s about the citizens of Vermont getting the opportunity for fair and equal representation. The system works, and the manner in which it was conducted should make Vermonter’s proud.”

Rep. Martin of Wolcott explained her vote as follows:

“Mr. Speaker:

I am voting for this bill to support the good work of the committee, even though I am disappointed that the town of Eden could not remain in Lamoille County. The numbers were just too high. We needed to avoid litigation against equal representation.”

Rep. Olsen of Jamaica explained his vote as follows:

“Mr. Speaker:

This is a puzzle for which there is no perfect solution.”

Rep. Stevens of Waterbury explained his vote as follows:

“Mr. Speaker:

This process presented the committee, at times, a series of Hobson’s choices – difficult choices no one wanted to make. I voted no because to lose Duxbury from our district at this time is painful. I am from Waterbury, but I am also from Duxbury, from Huntington, from Buels Gore. Having a perfectly sized district did not protect us from the growth around us and the need to legally accommodate that change.

I respect the work of the committee and appreciate that they heard the concerns of my district. I simply cannot support the difficult choice at this time.”

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

We appreciate the effort of the majority leadership to work with us to obtain a reasonable resolution to the redistricting puzzle that, although not perfect, meets many of the objectives our caucus set forth prior to the beginning of this

process. This plan was developed for the most part in a nonpartisan manner, keeps towns whole, is fair and provides most Vermonters an opportunity for fair representation in the Vermont House of Representatives for the next decade.”

Adjournment

At three o'clock and fifteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Thursday, February 2, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Committee Bill Introduced

H. 751

Rep. Lippert of Hinesburg, for the committee on Judiciary, introduced a bill, entitled

An act relating to jurisdiction of delinquency proceedings

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Bill Amended, Read Third Time and Passed

H. 629

House bill, entitled

An act relating to reapportioning the initial districts of the house of representatives

Was taken up and pending third reading of the bill, **Rep. Sweaney of Windsor** moved to amend the bill as follows:

First: In Sec. 1, by redesignating RUTLAND-1 to be RUTLAND-BENNINGTON and by redesignating the subsequent RUTLAND-2 through RUTLAND-7 districts to be RUTLAND-1 through RUTLAND-6 respectively

Second: In Sec. 1, in district WINDHAM-2-2, by striking the second reference to “Strand Avenue” and by inserting in lieu thereof “West Street”

Which was agreed to. Thereupon, the bill was read the third time and passed.

Bill Amended; Third Reading Ordered

H. 51

Rep. Bohi of Hartford, for the committee on Transportation, to which had been referred House bill, entitled

An act relating to expanding the issuance of gold star registration plates

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 304(k) is amended to read:

(k)(1) The commissioner of motor vehicles shall, upon proper application, issue special gold star and next-of-kin plates to gold star family members, as defined for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, as follows:

(A) Gold star plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces who lost their lives under the circumstances described in 10 U.S.C. § 1126, for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan 1126(a).

(B) Next-of-kin plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces not eligible for gold star plates under subdivision (A) of this subdivision (1) who lost their lives while serving on active duty or on active duty for training, or while assigned in a reserve or national guard unit in drill status, or as a result of injury or illness incurred during such service or assignment.

(2) The type and style of the gold star plate and next-of-kin plates shall be determined by the commissioner and the Vermont office of veterans' affairs, except that a gold star shall appear on one side of the plate gold star plates and a distinct emblem shall be approved for next-of-kin plates. An applicant shall apply on a form prescribed by the commissioner, and the applicant's eligibility will be certified by the office of veterans' affairs. A plate shall be reissued only to the original holder of the plate. The commissioner may adopt rules to implement the provisions of this subsection. Except for new or renewed registrations, applications for the issuance of gold

star or next-of-kin plates shall be processed in the order received by the department subject to normal workflow considerations.

and that after passage the title of the bill be amended to read: "An act relating to gold star and next-of-kin registration plates".

Rep. Helm of Castleton for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Transportation.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Transportation and Appropriations agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 327

Rep. Koch of Barre Town, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to the uniform principal and income act

Reported in favor of its passage when amended as follows:

First: In Sec. 1, 14 V.S.A. § 3351, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) A trustee shall allocate the following receipts from an entity to principal:

(1) property other than money, excluding reinvested cash dividends, provided that if the trustee may elect between money and other property as a distribution, property so elected and distributed shall retain its character as income;

(2) money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

(3) money received in total or partial liquidation of the entity;

(4) money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes; and

(5) capital gains and capital gains distributions.

Second: In Sec. 1, 14 V.S.A. § 3355, after the word "income" by striking out "and" and inserting in lieu thereof "an"

Third: In Sec. 1, 14 V.S.A. chapter 118, by striking § 3359 in its entirety and inserting in lieu thereof a new § 3359 to read as follows:

§ 3359. DEFERRED COMPENSATION, ANNUITIES, AND SIMILAR

PAYMENTS

(a) In this section:

(1) “Payment” means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term includes a payment made in money or property from the payer’s general assets or from a separate fund created by the payer. For purposes of subsections (d), (e), (f), and (g) of this section, the term also includes any payment from any separate fund, regardless of the reason for the payment.

(2) “Separate fund” includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock ownership plan.

(b) To the extent that payment is characterized as interest, a dividend, or a payment made in lieu of interest or a dividend, a trustee shall allocate the payment to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment and all or part of the payment is required to be made, a trustee shall allocate to income 10 percent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not required to be made to the extent that it is made because the trustee exercises a right of withdrawal.

(d) Except as otherwise provided in subsection (e) of this section , subsections (f) and (g) of this section apply and subsections (b) and (c) of this section do not apply in determining the allocation of a payment made from a separate fund to:

(1) a trust to which an election to qualify for a marital deduction under Section 2056(b)(7) of the Internal Revenue Code of 1986, as amended, has been made; or

(2) a trust that qualifies for the marital deduction under Section 2056(b)(5) of the Internal Revue Code of 1986, as amended.

(e) Subsections (d), (f), and (g) of this section do not apply if and to the extent that the series of payments would, without the application of subsection (d), qualify for the marital deduction under Section 2056(b)(7)(C) of the Internal Revenue Code of 1986, as amended.

(f) A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this chapter. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust. The trustee shall allocate a payment from the separate fund to income to the extent of the internal income of the separate fund and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

(g) If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal four percent of the fund's value, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee can determine neither the internal income of the separate fund nor the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments and determined under Section 7520 of the Infernal Revenue Code of 1986, as amended, for the month preceding the accounting period for which the computation is made.

(h) This section does not apply to a payment to which section 3360 of this title applies.

Fourth: In Sec. 1, 14 V.S.A. § 3361(d), by striking out “2011” where it thrice appears and inserting in lieu thereof “2012”

Fifth: In Sec. 1, 14 V.S.A. § 3362(d), by striking out “2011” where it thrice appears and inserting in lieu thereof “2012”

Sixth: In Sec. 3, by striking out “2011” where it twice appears and inserting in lieu thereof “2012”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Bill Amended; Third Reading Ordered**H. 403**

Rep. Koch of Barre Town, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to foreclosure of mortgages

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. chapter 172 is added to read:

CHAPTER 172. FORECLOSURE OF MORTGAGES

Subchapter 1. General Provisions

§ 4931. DEFINITIONS

As used in this chapter:

(1) “Agricultural activity” includes the growing, raising, and production of horticultural and silvicultural crops, grapes, berries, trees, fruit, poultry, livestock, grain, hay, and dairy products.

(2) “Dwelling house” means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives, each of which is used or intended to be used as a residence.

(3) “Farmland” means land devoted primarily to commercial agricultural activities.

(4) “Value” means market value less all reasonable expenses that would be incurred in selling the property. Market value for purposes of this section may be determined based on evidence of market value deemed by the court to be reasonably reliable, which may include grand list valuation and the common level of appraisal used in the town where the property is located, if the court finds such evidence to be reasonably reliable.

§ 4932. VENUE; JOINDER OF PARTIES; RECORDING

(a) Actions to foreclose a mortgage under subchapter 2 or 3 of this chapter shall be brought in the civil division of the superior court for the county where the land lies, or, if the land described in the mortgage lies in more than one county, then in one of the counties in which the land lies.

(b) The plaintiff shall file a copy of the complaint in the town clerk’s office in each town where the mortgaged property is located. The clerk of the town

shall minute on the margin of the record of the mortgage that a copy of foreclosure proceedings on the mortgage is filed. The filing shall be sufficient notice of the pendency of the action to all persons who acquire any interest or lien on the mortgaged premises between the dates of filing the copy of foreclosure and the recording of the final judgment in the proceedings. Without further notice or service, those persons shall be bound by the judgment entered in the cause and be foreclosed from all rights or equity in the premises as completely as though they had been parties in the original action.

(c) If the mortgaged property is subject to a residential rental agreement, as defined in 9 V.S.A. § 4451:

(1) The plaintiff shall join as a party defendant any person occupying the mortgaged property pursuant to a residential rental agreement as of the date the copy of the complaint is recorded in the land records. Service of the complaint on the tenant shall be sufficient if mailed to the tenant by first class mail at the address specified in the rental agreement, if the agreement is recorded, or to the "occupant" at the address of the leased premises if the agreement is not recorded.

(2) The summons and complaint served on any person occupying the premises pursuant to a residential rental agreement shall contain the following notice, written in at least 14-point type:

THE PROPERTY IN WHICH YOU LIVE IS BEING
FORECLOSED UPON. YOU ARE NAMED AS A DEFENDANT
IN THE FORECLOSURE BECAUSE YOUR RIGHT TO REMAIN
ON THE PREMISES MAY END WHEN THE FORECLOSURE IS
COMPLETED. YOU MUST NOTIFY THE COURT OF YOUR
NAME AND ADDRESS IN ORDER TO BE KEPT INFORMED OF
THE STATUS OF THE FORECLOSURE.

(3) Upon receipt of the complaint, the owner of the mortgaged property shall notify each tenant who enters into a residential rental agreement that the premises are the subject of a pending foreclosure action and that, in the event the owner is unable to redeem the premises, the tenant may be required to vacate the premises upon 30 days' notice, or upon such other notice as is required by federal law, whichever is longer. The failure of the owner to provide notice under this subsection shall not affect or invalidate the foreclosure action.

(d) All proceedings shall be before the superior judge alone, and trial shall be without jury.

§ 4933. NOTICE TO COMMISSIONER OF BANKING, INSURANCE, SECURITIES, AND HEALTH CARE ADMINISTRATION

(a) When the mortgage holder files an action under subchapter 2 or 3 of this chapter to foreclose upon an owner-occupied dwelling house, the mortgage holder shall simultaneously file a notice of foreclosure with the commissioner of banking, insurance, securities, and health care administration. The commissioner may require that the notice of foreclosure be sent in an electronic format. The notice of foreclosure shall include:

(1) the name and current mailing address of the mortgagor;

(2) the address of the property being foreclosed;

(3) the name of the current mortgage holder, along with the address and telephone number of the person or entity responsible for workout negotiations concerning the mortgage;

(4) the name of the original lender, if different;

(5) the name, address, and telephone number of the mortgage servicer, if applicable; and

(6) any other information the commissioner may require.

(b) The court clerk shall not accept a foreclosure complaint for filing without a certification by the plaintiff that the notice of foreclosure has been sent to the commissioner of banking, insurance, securities, and health care administration in accordance with subsection (a) of this section.

(c) Acceptance of a foreclosure complaint by the court clerk that, due to a good faith error or omission by the plaintiff or the clerk, does not contain the certification required in subsection (a) of this section shall not invalidate the foreclosure proceeding, provided that the plaintiff files the required notice with the commissioner within 10 days of obtaining knowledge of the error or omission.

§ 4934. SUPPLEMENTAL JUDGMENT JOINING PARTIES; RECORDING

At any time, without further notice or service on the purchaser or mortgagor or lienholder whose interest in the property being foreclosed first arose after the filing of the complaint in the town clerk's office, and upon filing certified copies of the deed, mortgage, or attachment with the clerk of the court by the plaintiff in the foreclosure action, any superior judge may sign a supplemental judgment specifically naming that party. Reference to the deed, mortgage, or lien and the supplemental judgment may be filed in the town clerk's office for

record, and it shall have the same force and effect as though that person had been made a party defendant in the original action.

§ 4935. TAXES PAID BY MORTGAGEE

A tax assessed upon mortgaged real estate in this state may be paid by the mortgagee or assignee of the mortgage upon such property. The amount so paid, including costs, if any, shall thereupon be added to and become a part of the debt or obligation secured by such mortgage.

§ 4936. FORECLOSURE OF REAL OR PERSONAL PROPERTY

A mortgage or a security agreement constituting a lien on both real and personal property to secure the payment of a debt, whether evidenced by one or more instruments, may be foreclosed in an action under subchapter 2 or 3 of this chapter.

§ 4937. ATTORNEY'S FEES

When a mortgage contains an agreement on the part of the mortgagor to pay the mortgagee, in the event of foreclosure, the attorney's fees incident thereto, and claim is made therefor in the complaint, upon hearing, the court in which the complaint is brought shall allow such fee as in its judgment is just.

§ 4938. EFFECT ON BANKRUPTCY PROCEEDINGS

Nothing in this chapter shall be construed to supersede any provision of Title 11 of the United States Code.

§ 4939. APPEALS

When a judgment is for the foreclosure of a mortgage, permission of the court shall be required for review.

Subchapter 2. Strict Foreclosure

§ 4941. DECREE FORECLOSING EQUITY OF REDEMPTION; WRIT OF POSSESSION

(a) In any action for foreclosure with regard to any mortgage encumbering property, the court may, if no sale is requested by the plaintiff or ordered by the court pursuant to subsection (b) of this section, issue a judgment and decree of foreclosure without requiring a judicial sale of the premises.

(b) In an action brought under subsection (a) of this section, any party may by written motion request, or the court in its discretion may order, that property be sold at a judicial foreclosure sale, whether or not the mortgage contains a power of sale.

(c) No decree foreclosing the right of redemption without sale shall be issued absent a finding by the court that there is no substantial value in the property in excess of the mortgage debt found by the court to be due to the plaintiff and any other lienholder, plus assessed but unpaid property taxes due on the property. The court shall include in its order a summary of the evidence upon which its finding is based.

(d) If a decree is issued foreclosing the right of redemption without sale, the time of redemption shall be six months from the date of the decree unless a shorter time is ordered, or the mortgagor and mortgagee plaintiff agree to a shorter period. The court shall fix the period of redemption taking into consideration whether there is value in the property in excess of the mortgage debt and debt owed to junior lienholders, any assessed but unpaid property taxes, the condition of the property, and any other equities.

(e) If the premises are not redeemed agreeably to the decree, the clerk of the court shall issue a writ of possession at the plaintiff's request. Such writ shall have the same force and effect and be executed in the same manner as similar writs issued after judgment by a court of law in ejectment proceedings. Where the premises are occupied by a residential tenant, the writ shall be served on the tenant, and the plaintiff shall be placed in possession of the property without further proceedings no sooner than 30 days after the writ is served, or upon such other time as is required by federal law, whichever is longer.

(f)(1) In an action for foreclosure under this section, if a lien or interest in such realty is held by any person or federal agency which may not be foreclosed by strict foreclosure pursuant to federal law, the court shall proceed in accordance with subchapter 3 of this chapter.

(2) In an action for foreclosure, if a lien or interest in such realty is held by any person or federal agency which may not be foreclosed by strict foreclosure pursuant to federal law, a decree may be entered providing for such period of redemption as the court may determine, and providing for a sale of the mortgaged premises at the conclusion of such period if the premises are not redeemed, and for the time, manner, and notice of sale, if required, and the application of any proceeds.

(g) In an action for foreclosure under this section, where the time of redemption has expired, the party obtaining the foreclosure shall cause a certified copy of the judgment and the certificate of nonredemption to be recorded in the office where by law a deed of the lands is required to be recorded.

(h) If the plaintiff complies with subsection (g) of this section, the expiration of the right of redemption under the decree shall foreclose the interest of subsequent purchasers, mortgagees, or attaching creditors whose interest in the property being foreclosed first arose after the filing of the complaint for foreclosure in the land records as provided in section 4932 of this chapter.

Subchapter 3. Foreclosure by Judicial Sale

§ 4945. JUDICIAL SALE FORECLOSURE

(a) All liens and mortgages affecting real property may, on the written motion of any party to any suit for foreclosure of such liens or mortgages, or at the discretion of the court before which the foreclosure proceedings are pending, be foreclosed by a judicial foreclosure sale, even if the mortgage does not contain a sale provision instead of a strict foreclosure.

(b) In an action for foreclosure, if a lien or interest in such realty is held by any person or federal agency which may not be foreclosed by strict foreclosure pursuant to federal law, a decree may be entered providing for such period of redemption as the court may determine, and providing for a sale of the mortgaged premises at the conclusion of such period if said premises are not redeemed, and for the time, manner, and notice of sale, if required, and the application of the proceeds therefrom.

§ 4946. PROCEDURE

(a) Order for judicial sale. Upon entry of a decree of judicial sale foreclosure, the court shall order that the mortgaged property be sold at a public sale if it is not redeemed within the time period allowed by the court. The public sale shall be conducted on or before six months from the expiration of the last redemption date set forth in the decree unless extended by the court or stayed by a bankruptcy filing. The time and manner of the sale shall be specified in the notice of sale required by section 4952 of this title.

(b) Time for redemption; owner-occupied dwelling house or farmland. If a decree is made foreclosing the right of redemption by judicial sale with respect to farmland or a dwelling house that is occupied by the owner as his or her principal residence at the time the plaintiff applies for entry of judgment, the time of redemption shall be established by the court and shall be six months from the date of the decree, unless a shorter time is ordered by the court. The court shall fix the period of redemption taking into consideration whether there is value in the mortgaged property in excess of the mortgage debt and debt owed to junior lienholders, any assessed but unpaid property taxes, the condition of the mortgaged property, and any other equities. No sale of a dwelling house when occupied by the owner as his or her principal residence at

the time the plaintiff applies for entry of judgment may take place within seven months of service of the foreclosure complaint, unless the court orders a shortened redemption period pursuant to this section or the plaintiff and the mortgagor mutually agree to a shorter period after commencement of the action to foreclose the mortgage.

(c) Time for redemption; other property. If a decree is made foreclosing the right of redemption by judicial sale with respect to any property other than farmland or a dwelling house that is occupied by the owner as his or her principal residence at the time the plaintiff applies for entry of judgment, the redemption period shall be eliminated or reduced by the court to no more than 30 days.

(d) Writ of possession. Upon expiration of the period of redemption in the decree, other than farmland or a dwelling house when currently occupied by the owner as his or her principal residence, if the mortgagor or the mortgagor's successors, heirs, or assigns have not redeemed the mortgage, any remaining rights of the mortgagor to possession shall terminate, and the clerk of the court shall issue a writ of possession at the plaintiff's request and upon court approval. In the case of farmland or a dwelling house currently occupied by the owner as his or her principal residence when the period of redemption in the decree expires, the clerk shall issue a writ of possession at the plaintiff's request and upon approval of the court. Such writ shall have the same force and effect and be executed in the same manner as similar writs issued after judgment by a court of law in ejectment proceedings. Where the mortgaged property is occupied by a residential tenant, the writ shall be served on the tenant, and the plaintiff shall be placed in possession of the mortgaged property without further proceedings no sooner than 30 days after the writ is served, or upon such other time as is required by federal law, whichever is longer.

§ 4947. FORECLOSURE OF EQUITY OF REDEMPTION; RECORDING

(a) In an action for foreclosure under this subchapter where the time of redemption has expired, the party obtaining the foreclosure shall cause a certified copy of the judgment and the certificate of nonredemption to be recorded in the office where by law a deed of the lands is required to be recorded.

(b) If the plaintiff complies with subsection (a) of this section, the expiration of the right of redemption under the decree shall foreclose the interest of subsequent purchasers, mortgagees, or attaching creditors whose interest in the property being foreclosed first arose after the filing of the complaint for foreclosure in the land records as provided in section 4932 of this chapter.

§ 4948. REINSTATEMENT OF MORTGAGE PRIOR TO SALE

(a) Upon agreement of the mortgagor and mortgagee, the mortgagor may reinstate or modify the loan after the expiration of the redemption period set forth in the judgment order but before the public sale. Upon reinstatement or modification of the loan, the mortgagee shall execute a waiver of foreclosure and, after receiving court approval, record it in the land records of the city or town where the mortgaged property lies. Upon recording, the waiver of foreclosure shall operate to terminate the foreclosure and restore the parties and all junior lienholders to the positions they held prior to the filing of the foreclosure, as amended by any modification agreement between the mortgagor and mortgagee.

(b) The following form of waiver of foreclosure may be used. Nothing herein shall be construed to prevent the use of other forms or to prevent alteration of the form as circumstances require:

WAIVER OF FORECLOSURE

MORTGAGEE, holder of record of a mortgage deed dated _____, 20____ and of record in Book _____ at Page _____ of the City/Town of _____ Land Records ("the Mortgage") executed and delivered to it by MORTGAGOR(S) covering real estate located in the Town of _____, Vermont hereby acknowledges and agrees:

1. For the breach of the condition of the Mortgage, MORTGAGEE initiated a foreclosure action against MORTGAGOR by Complaint for Foreclosure dated _____, 20____ which is of record in Book _____ at Page _____ of the Town of _____ Land Records.
2. That MORTGAGOR(S) has/have now cured the default and requested reinstatement of the Mortgage and the MORTGAGEE agrees to reinstate the mortgage, as amended by any modification agreement between the mortgagor and mortgagee.

NOW THEREFORE, MORTGAGEE does hereby acknowledge that it has received payment of the arrearages due it under the Mortgage and the promissory note which it secures, and in consideration thereof, does hereby waive the above-entitled foreclosure action and release unto said MORTGAGOR, his/her/its heirs, personal representatives, successors, and assigns, all claims asserted in the foreclosure action. THE MORTGAGE IS NOT DISCHARGED.

This waiver is given pursuant to 12 V.S.A. § 4948. This waiver shall have no effect on the Mortgage referenced above other than to reinstate the same, as amended by any agreement between the mortgagor and mortgagee, and the rights of all parties named in the foreclosure action, as well as the rights of any junior lienholders, remain intact, except as amended by any agreement between the mortgagor and mortgagee, as if no foreclosure had been commenced.

IN WITNESS WHEREOF, the said MORTGAGEE has caused this instrument to be executed by its duly authorized agent this _____ day of _____, 20____.
MORTGAGEE

By: _____

Its Duly Authorized Agent

Printed Name: _____

State of _____

County of _____

At _____ in said County and State, then personally appeared the above-named duly authorized agent who acknowledged the foregoing waiver of foreclosure to be his/her free act and deed and the free act and deed of the MORTGAGEE.

Before me, _____

Printed Name: _____

Notary Public

My Commission expiration _____

The request for waiver of foreclosure is SO ORDERED this _____ day of _____, 20____.

Superior Court Judge

§ 4949. MORTGAGOR'S REDEMPTION PRIOR TO JUDICIAL SALE

(a) The mortgagor is entitled to redeem the premises at any time prior to the public sale by paying the full amount due under the judgment order and such other amounts, including costs and expenses of sale, accruing postjudgment as agreed upon by the mortgagor and mortgagee or ordered by the court.

(b) Upon agreement of the parties, the mortgagor may redeem the premises at any time prior to the public sale by paying less than the full amount due under the judgment order. In such case, the parties to the foreclosure shall, with court approval, amend the redemption amount. Upon payment of the amended redemption amount, the court shall issue a Supervening Certificate of Redemption as evidence that the judgment amount was redeemed. Upon the recording of a certified copy of the Supervening Certificate of Redemption in the land records, the foreclosed mortgage shall be of no further force or effect

and any junior lienholder shall return to the position it held prior to the filing of the foreclosure.

(c) The redemption right established by this section shall be in addition to the redemption right set forth in the decree.

§ 4950. [Reserved.]

§ 4951. JUDGMENT VACATED

Notwithstanding any provision to the contrary in this chapter or other law, the mortgagor and mortgagee may stipulate and move to vacate the judgment at any time prior to the public sale. If the court approves the motion, the judgment shall be vacated and all parties, the property, and any lienholders of record in the land records will be restored to their original positions as if no foreclosure had been commenced and no judgment entered. Notwithstanding any other provision of law, this section will apply retroactively and apply to orders to vacate in existence on the effective date of this section.

§ 4952. SALE PROCEDURES

(a) Generally. If the mortgaged property is not redeemed, the plaintiff shall sell the mortgaged property in accordance with this section, complying with all court orders and applicable power of sale provisions.

(b) Notice of sale; publication. Notice of sale shall be published once in each of three successive weeks in a newspaper of general circulation in the town where the land lies, the first publication to be no fewer than 21 days before the day of sale.

(c) Notice of sale; service. A copy of the notice of sale shall be mailed by first class mail, postage prepaid, to all parties who appeared in the foreclosure action or to their attorneys of record. If the mortgagor has not appeared in the foreclosure action, a copy of the notice of sale shall also be mailed by first class mail, postage prepaid, to the mortgagor at the mortgagor's last known address. The notice of sale shall include the specific date, time, and location of the sale and shall be mailed after the last date of redemption in the decree but no fewer than 30 days before the date of the sale.

(d) Notice of sale; waiver. Any party entitled to be sent notice under this section may, either before or after the foreclosure sale, waive the party's right to receive notice, in which case no foreclosure sale shall be invalid or ineffectual to foreclose that party's rights under the mortgage. This subsection shall not apply to farmland or to a dwelling house unless approved by the court at or before the confirmation of sale.

(e) Notice of sale; form. The following form of notice of sale may be used and may be altered as circumstances require, but nothing herein shall be construed to prevent the use of other forms:

By virtue and in execution of the Power of Sale contained in a certain mortgage given by _____ to _____ dated _____ and recorded in Volume _____, Page _____ of the land records of the municipality of _____, of which mortgage the undersigned is the present holder (if by assignment, or in any fiduciary capacity, give reference) for breach of the conditions of said mortgage and for the purpose of foreclosing the same will be sold at Public Auction at _____ (place) at _____ o'clock, _____ M. on the _____ day of _____, 20____ all and singular the premises described in said mortgage,

(In case of partial releases, state exceptions.)

To wit: (Legal description of the premises.)

Terms of sale: (State here the amount, if any, to be paid in cash by the purchaser at the time of the sale, and the schedule for payment of the balance and other terms of sale.)

The mortgagor is entitled to redeem the premises at any time prior to the sale by paying the full amount due under the mortgage, including the costs and expenses of the sale.

Other terms to be announced at the sale or inquire at _____

Signed: _____

Mortgagee (may be signed by mortgagee's attorney)

Dated: _____, 20____.

§ 4953. CONDUCT AND LOCATION OF SALE

(a) Location. The sale shall be held at the mortgaged property unless another place for sale is directed by the court. At the sale, the mortgaged property shall be sold to the highest bidder in conformance with the terms of sale set forth in the notice of sale.

(b) Adjournments. The public sale may be adjourned one or more times for a total time not exceeding 30 days, without further court order, and without publication or service of a new notice of sale, by announcement of the new sale date to those present at each adjournment or by posting notice of the adjournment in a conspicuous place at the location of the sale. Notice of the new sale date shall also be sent by first class mail, postage prepaid, to the

mortgagor at the mortgagor's last know address at least five days before the new sale date. The public sale may be adjourned for a period of time in excess of 30 days by agreement of the mortgagor and mortgagee or by order of the court.

(c) Permitted bidders. Any person may bid at the sale. All bidders, except for the mortgagee plaintiff or designee, shall meet the requirements set forth in the notice of sale in order to bid at the sale.

§ 4954. PROCEDURE FOLLOWING SALE

(a) Confirmation order. Following the sale, the plaintiff shall file with the court a report on oath of the sale, together with a request for confirmation of the sale, which shall include an accounting of the sale proceeds, and a proposed order confirming the sale. Copies of the report of the sale and request for confirmation shall be mailed by first class mail, postage prepaid, to all parties who appeared in the foreclosure action or to their attorneys of record and to the mortgagor at the mortgagor's last known address. The court may issue an order of confirmation of the sale without hearing, unless the court in its discretion determines that a hearing is necessary. The order of the court confirming the sale shall be conclusive evidence as against all persons that the foreclosure and sale were conducted in accordance with this section.

(b) Transfer of title. The confirmation order shall be recorded in the land records of the town where the mortgaged property is located and shall transfer title to the mortgaged property to the purchaser upon recording.

(c) Disbursement of proceeds. In the event that the proceeds of the sale, after first deducting the reasonable expenses incurred in making the sale, exceed the amounts due to the plaintiff at the time of sale, the confirmation order shall provide for the payment of the surplus to other lienholders of record in the order of the priority of their liens. In the event that the proceeds of the sale exceed the amount due to the plaintiff and the amount due to the other defendants, the excess shall be paid to the defendant mortgagor.

(d) Deficiency. The plaintiff may request a deficiency judgment in the foreclosure complaint. The court may assess a judgment against the mortgagor for the deficiency if the proceeds of sale are insufficient to meet the expenses incurred in making the sale and the amount due to the plaintiff. If the plaintiff seeks a deficiency judgment, it shall be requested prior to issuance of the confirmation order. Failure to request a deficiency judgment shall be deemed a waiver of any deficiency judgment against a mortgagor.

(e) Failure of sale; resale. In the event that the purchaser fails to pay the balance of the purchase price according to the terms of the sale, then, upon the

request of the plaintiff, the down payment shall be forfeited and the court shall issue an order vacating the confirmation order. Upon motion and after hearing, the court may issue a confirmation order to the second highest bidder.

Subchapter 4. Foreclosure by Nonjudicial Sale

§ 4961. POWER OF NONJUDICIAL SALE

Whether or not a power of sale is contained in a mortgage relating to any property, except for farmland or a dwelling house owned by a natural person, instead of a suit and decree of foreclosure, the mortgagee may, upon breach of mortgage condition, foreclose upon the property without first commencing a foreclosure action or obtaining a foreclosure decree by complying with the terms of this subchapter. No sale under and by virtue of a nonjudicial power of sale shall be valid and effectual to foreclose the mortgage unless the conditions of this subchapter are complied with.

§ 4962. NOTICE OF INTENTION TO FORECLOSE

(a) At least 30 days prior to service of a notice of sale pursuant to subsection 4952(c) of this title, notice of intention to foreclose in a writing complying with this section shall be sent to the mortgagor by registered or certified mail at his or her last known address.

(b) The writing required by this section shall state, in a manner calculated to make the mortgagor aware of the situation:

(1) the mortgage to be foreclosed;

(2) the mortgage condition claimed to have been breached;

(3) that the mortgagee has accelerated maturity of the debt secured by the mortgage, if that is the case;

(4) the amount to be paid or other action necessary to cure, and the time within which the cure must take place, which shall be not less than 30 days after the date of the notice of intention to foreclose;

(5) the intention of the mortgagee to foreclose by exercising the power of sale contained in the mortgage, if the breach of the mortgage condition is not cured within the time and in the manner specified in the notice; and

(6) that the mortgagor will be entitled to be sent notice of the foreclosure sale at least 60 days prior to the sale and to redeem the mortgaged property at any time prior to the sale by paying the full amount due under the mortgage, including the costs and expenses of the sale.

(c)(1) The following notice of intent to foreclose form may be used and may be altered as circumstances require:

PLEASE TAKE NOTICE that you have defaulted under Loan No. _____ by [mortgage condition breached] required by your Promissory Note dated _____, 20 _____. This default also constitutes a breach of the Mortgage, dated _____, 20 ____, recorded in Volume _____ at Page _____ of the Land Records, which secures the Loan. As a result of your default, we have accelerated the maturity of all indebtedness due on the Loan and secured by the Mortgage, totaling \$ _____ as of today's date. In order to cure this default, you must pay to us on or before _____ [a date not less than thirty (30) days after the date of this Notice] the sum of \$ _____, plus interest at the rate of \$ _____ per day to the date of payment. If you do not cure this default by making the payments required, it is our intention to foreclose by exercising the power of sale contained in the above Mortgage. You will be sent notice of the foreclosure sale at least sixty (60) days prior to the sale, and you will be entitled to redeem your interest in the mortgaged property at any time prior to the sale by paying the full amount due under the Mortgage, including the costs and expenses of the sale. If you do not cure the default or redeem your interest, your ownership of the mortgaged property will be terminated.

(2) This subsection shall not be construed to prevent the use of other forms except that all notices shall comply with the provisions of subsection (b) of this section.

§ 4963. PUBLICATION OF NOTICE OF SALE

Notice of a sale conducted pursuant to this subchapter shall be published once in each of three successive weeks, in a newspaper of general circulation in the town where the land lies, the first publication to be not less than 21 days before the day of sale.

§ 4964. RECORDING

The mortgagee shall record the notice of sale in the land records of the town or city where the land lies not less than 60 days prior to the sale. The filing of the notice of the sale shall be in lieu of filing a foreclosure complaint under section 4932 of this title and shall be sufficient notice of the pendency of the nonjudicial foreclosure by power of sale to all persons who acquire any interest or lien in the mortgaged property between the dates of recording the notice of sale and recording the foreclosure deed. Without further notice or service, those persons shall be bound by the power of sale and the foreclosure deed and shall be foreclosed from all rights or equity in the mortgaged property.

§ 4965. SERVICE; FORM

(a)(1) In all cases, unless service is waived under subsection 4966(g) of this title, a copy of the notice of sale shall be served on the mortgagor or his or her representative in interest by:

(A) sending the notice by registered or certified mail addressed to the mortgagor or such representative at his or her last known address, or to such person and address as may be agreed upon in said mortgage, at least 60 days before said sale; or

(B) serving the notice in any manner authorized by the Vermont Rules of Civil Procedure.

(2) As used in the section, "mortgagor" shall mean the mortgagor or the then record owner of the mortgaged property.

(b)(1) A copy of the notice of sale shall be sent to any tenant lawfully occupying the mortgaged property and to any person having a recorded interest in the mortgaged property of record which will be foreclosed by the sale, provided that the interest is recorded in the applicable land records prior to the recording of the notice of sale. The notice required by this subsection shall be sent not less than 60 days before the sale. Notice to a tenant shall be sufficient if mailed to the tenant by first class mail at the address specified in the lease, if recorded, or to the occupant at the address of the mortgaged property, if the lease is not recorded.

(2) Compliance with this subsection shall be sufficient with respect to persons entitled to receive notice under subdivision (1) of this subsection, and the failure to give additional notice shall not be grounds to invalidate the sale. Any mortgagor or junior lienholder who refuses to accept or claim mailed or served notice or who frustrates attempts by the mortgagee to give notice of the sale by failing to give or leave a forwarding address or by other acts or omissions shall be deemed to be notified of the sale, provided that such mortgagee shall have made a good faith effort to provide such notice.

(c)(1) The following notice of sale form may be used and may be altered as circumstances require:

By virtue and in execution of the Power of Sale contained in a certain mortgage given by _____ to _____ dated _____ and recorded in Volume _____ Page _____ of the land records of the town of _____, of which mortgage the undersigned is the present holder, (if by assignment, or in any fiduciary capacity, give reference) for breach of the conditions of said mortgage and for the purpose of foreclosing the same

will be sold at Public Auction at _____ o'clock, _____ M. on the
_____ day of _____ 20____, (place) _____ at the mortgaged
property.

To wit: (Legal description of the mortgaged property and in case of partial releases, state exceptions.)

Terms of sale: (State here the amount, if any, to be paid in cash by the purchaser at the time of the sale, and the schedule for payment of the balance.)

The mortgagor and all junior lienholders are entitled to redeem the mortgaged property at any time prior to the sale by paying the full amount due under the mortgage, including the costs and expenses of the sale.

Other terms to be announced at the sale or inquire at _____

(Signed) _____

Mortgagee (may be signed by mortgagee's attorney)

_____ 20____

(2) This subsection shall not be construed to prevent the use of other forms. A notice of sale shall be sufficient if it fully sets forth the date, time, and place of sale; the town, county, street or highway and street number, if any, of the mortgaged premises; the date of the mortgage; the volume and page of the recording of the mortgage; the terms of the sale; the statement language required by subdivision (d)(1) of this section; and notice of the right to redeem.

(d)(1) The notice of the sale shall include the following statement: "The mortgagor and all junior lienholders are hereby notified that at any time before the foreclosure sale, the mortgagor and all junior lienholders have a right to petition the civil division of the superior court for the county in which the mortgaged property is situated, with service upon the mortgagee, and upon such bond as the court may require, to enjoin the scheduled foreclosure sale. Failure to institute such petition and complete service upon the foreclosing party, or the party's agent, conducting the sale prior to sale shall thereafter bar any action or right of action of the mortgagor or any junior lienholder based on the validity of the foreclosure, the right of the mortgagee to conduct the foreclosure sale, or compliance by the mortgagee with the notice requirements and other conditions of this section. An action to recover damages resulting from the sale of the mortgaged property on the date of the sale may be commenced at any time within one year following the date of the sale, but not thereafter."

(2) The mortgagor and all junior lienholders shall have the rights contained in the notice provided for in this subsection.

§ 4966. CONDUCT AND LOCATION OF SALE

(a) The sale shall be held at the mortgaged property except that it may be held elsewhere if agreed to in writing by the mortgagor and the mortgagee not less than 60 days nor more than 90 days before the sale. At the sale, the mortgaged property shall be sold to the highest bidder in conformance with the terms of sale set forth in the foreclosure notice.

(b) The mortgagor shall be entitled to redeem the mortgaged property at any time prior to the sale by paying to the mortgagee the full amount due under the mortgage, including the costs and expenses of the sale.

(c) The public sale may be adjourned one or more times for a total time not exceeding 60 days by announcement of the new sale date to those present at each adjournment or by posting notice of the adjournment in a conspicuous place at the location of the sale. Written notice of the new sale date shall also be given by first class mail, postage prepaid, to any person who received notice of the sale pursuant to section 4965 of this title.

(d) Any person may bid at the sale. All bidders, except for the mortgagee plaintiff or designee, shall meet the requirements set forth in the notice of sale in order to bid at the sale.

(e) In the event that the proceeds of sale, after first deducting the reasonable expenses incurred in making the sale, exceed the amounts due to the mortgagee at the time of sale, the surplus shall be paid to other lien holders of record in the order of the priority of their liens. In the event that the proceeds of sale exceed the amount due to the mortgagee and the amounts due to the other lien holders, the excess shall be paid to the mortgagor. The mortgagee or person conducting the sale may interplead any sale proceeds in excess of the indebtedness and expenses secured by the mortgage in the event there are any liens of record against the real estate.

(f) This section shall not preclude the mortgagee from maintaining a subsequent action against the mortgagor for any deficiency.

(g) Any party entitled to be sent notice under this section may, either before or after the foreclosure sale, waive the party's right to receive notice, in which case no foreclosure sale shall be invalid or ineffectual to foreclose that party's rights under the mortgage. A waiver of notice authorized or validated under this section shall be recorded in the land records in the town or city where the property is located.

§ 4967. RECORDING FOLLOWING SALE

(a) Within 90 days after the sale, the mortgagee selling pursuant to the

power shall cause the foreclosure deed and an accompanying affidavit to be recorded in the land records of the town where the property is situated. The affidavit setting forth fully and particularly the mortgagee's acts with respect to the sale of the mortgaged property, including the dates that notices of the sale were published, and shall set forth facts showing that no person in interest is in the military service as defined in the Service Members Civil Relief Act of 2003. The affidavit or a duly certified copy thereof shall be admissible in evidence on the issue of whether the power of sale was duly executed.

(b) If the recording required by this section is prevented by an order or stay of any court, the time for such recording shall be extended until 10 days after the expiration or removal of such order or stay.

(c) If the recording required by this section is made more than 60 days after the sale, the affidavit shall state why the recording was not made earlier.

(d) Failure to record the deed and affidavit within the statutory period required by this subsection shall render the sale void and of no effect only as to liens or other encumbrances of record intervening between the day of the sale and the time of recording of said deed and affidavit.

(e) Correction of error. In case of an alleged error or omission in the affidavit, the court, on petition and after notice to interested parties, may validate the affidavit or authorize the recording of an affidavit amending, correcting or in substitution for an affidavit so recorded, and the affidavit so authorized to be recorded or a certified copy of the record thereof shall have the same effect and shall be admitted in evidence as if it had been recorded within the 90-day period required by this section.

§ 4968. TRANSFER OF TITLE

Title to the foreclosed mortgaged property under this section shall not pass to the purchaser until the time of the recording of the deed and affidavit. Upon such recording, title to the mortgaged property shall pass to the purchaser free and clear of all interests and encumbrances which do not have priority over such mortgage.

§ 4969. FAILURE OF SALE; RESALE

If the purchaser does not pay the balance of the purchase price according to the terms of the sale, and at the option of the mortgagee, the down payment, if any, shall be forfeited and the foreclosure sale shall be void.

§ 4970. FORM AND EFFECT OF FORECLOSURE DEED

(a) The foreclosure deed shall be in substantially the following form:

of _____ County, _____ State of _____, holder
of a mortgage from _____ to _____ dated _____, recorded
in _____ Book _____ at Page _____ of the Town of _____ Land Records, by
the power conferred by said mortgage and every other power, for _____ dollars
paid, grant to _____, (complete mailing address) _____, of
_____ Street, Town (City) of _____, _____ County, State of
_____, the premises conveyed by said mortgage.

(Here add acknowledgment)

(b) A deed substantially in the form set forth in subsection (a) of this section shall, when duly executed and delivered, have the force and effect of a deed in fee simple to the grantee, heirs, successors and assigns, to their own use, with covenants on the part of the mortgagee, for himself or herself, that, at the time of the delivery of such deed, the mortgagee was duly authorized to make sale of the mortgaged property; that in all of the mortgagee's proceedings in the sale thereof, the mortgagee has complied with the requirements of this subchapter; and that the mortgagee will warrant and defend the same to the grantee, heirs, successors, and assigns against the lawful claims of all persons claiming by, from, or under him or her.

Sec. 2. REPEAL

12 V.S.A. chapter 163, subchapter 6 (foreclosure of mortgages) is repealed.

Sec. 3. EFFECTIVE DATE; APPLICABILITY

This act shall take effect on July 1, 2012 and shall apply to any mortgage foreclosure proceeding instituted after that date.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 413

Rep. Wizowaty of Burlington, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 1384 is added to read:

§ 1384. CIVIL ACTION; RECOVERY BY ATTORNEY GENERAL

(a) The attorney general may bring an action for damages on behalf of the state against a person or caregiver who, with reckless disregard or with knowledge, violates section 1376 (abuse of a vulnerable adult), 1377 (abuse by unlawful restraint or confinement), 1378 (neglect of a vulnerable adult), 1380 (financial exploitation), or 1381 (exploitation of services) of this title, in addition to any other remedies provided by law, not to exceed the following:

- (1) \$5,000.00 if no bodily injury results;
- (2) \$10,000.00 if bodily injury results;
- (3) \$20,000.00 if serious bodily injury results; and
- (4) \$50,000.00 if death results.

(b) In a civil action brought under this section, the defendant shall have a right to a jury trial.

(c) A good faith report of abuse, neglect, exploitation, or suspicion thereof pursuant to 33 V.S.A. § 6902 or federal law shall not alone be sufficient evidence that a person acted in reckless disregard for purposes of subsection (a) of this section.

Sec. 2. 13 V.S.A. § 1385 is added to read:

§ 1385. CIVIL INVESTIGATION

(a)(1) If the attorney general has reason to believe a person or caregiver has violated section 1376, 1377, 1378, 1380, or 1381 of this title or an administrative rule adopted pursuant to those sections, he or she may:

(A) examine or cause to be examined any books, records, papers, memoranda, and physical objects of whatever nature bearing upon each alleged violation.

(B) demand written responses under oath to questions bearing upon each alleged violation.

(C) require the attendance of such person or of any other person having knowledge on the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the state.

(D) take testimony and require proof material for his or her information and administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(2) The attorney general shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses at least ten days prior to the date of such examination, personally or by certified mail, upon such person at his or her principal place of business or, if such place is not known, to his or her last known address. Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this state for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same. This subsection shall not apply to any criminal investigation or prosecution.

(b) A person upon whom a notice is served pursuant to this section shall comply with the terms thereof unless otherwise provided by the court order. Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject of any such notice or mistakes or conceals any information shall be subject to a civil fine of not more than \$5,000.00.

(c) If a person fails to comply with a notice served pursuant to subsection (b) of this section or if satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general may file a petition with the superior court for enforcement of this section. Whenever any petition is filed under this section, the court shall have jurisdiction to hear and determine the matter presented and to enter such orders as may be required to effectuate the provisions of this section. Failure to comply with an order issued pursuant to this section shall be punished as contempt.

Sec. 3. 33 V.S.A. § 6911(a)(1) is amended to read:

(1) The investigative report shall be disclosed only to: the commissioner or person designated to receive such records; persons assigned by the commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the office of professional regulation when deemed appropriate by the commissioner; a law enforcement agency, the state's attorney, or the office of the attorney general, when the department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to

this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Rules Suspended; Consideration Interrupted by Recess

H. 630

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to reforming Vermont's mental health system

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Pugh of South Burlington spoke for the committee on Human Services.

Rep. Emmons of Springfield, for the committee on Corrections and Institutions, to which the bill had been referred reported in favor of its passage when amended as follows:

First: In Sec. 2, Principles for Mental Health Care Reform, by striking subdivisions (1) and (3) and inserting in lieu thereof the following:

(1) The state of Vermont shall meet the needs of individuals with mental health conditions, including the needs of individuals in the custody of the commissioner of corrections, and the state's mental health system shall reflect excellence, best practices, and the highest standards of care.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the departments of mental health and of corrections, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with mental health conditions receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

Second: In Sec. 9, Inpatient Hospital Beds, by striking out the section in its entirety and inserting in lieu thereof the following:

Sec. 9. INPATIENT HOSPITAL BEDS

(a) To replace the services provided at the Vermont State Hospital, the department of mental health shall oversee the delivery of emergency examination and involuntary inpatient treatment services at four acute inpatient hospitals throughout the state:

(1) The department of mental health shall enter into contracts that meet the requirements of subdivision (2) of this subsection with a hospital in southeastern Vermont and a hospital in southwestern Vermont for the establishment of a 14-bed unit and a six-bed unit, respectively, contingent upon receipt by the hospitals of certificates of need pursuant to 18 V.S.A. chapter 221, subchapter 5.

(2) Initial contract terms for the 14-bed unit and the six-bed unit shall require participation in the no refusal system for at least four years and until the facility has recouped its initial investment. Contracts referenced in subdivision (1) of this subsection shall apply to participating hospitals, notwithstanding their status as designated hospitals, and shall contain the following requirements:

(A) Funding shall be based on the ability to treat patients with high acuity levels;

(B) Units shall be managed as part of a statewide no refusal system;

(C) Reimbursement by the state shall cover agreed costs for enhanced programming and staffing;

(D) Units shall be managed to ensure access to peer supports;

(E) Participating hospitals shall maintain a stakeholder advisory group with open membership to ensure high quality and appropriate levels of care; and

(F) The state shall retain the option to renew the contract upon expiration of the initial four-year term.

(3) Provided that the conditions of subdivisions (1) and (2) of this subsection are met, the following capital and annual state costs are estimated:

(A) To renovate and operate a 14-bed unit:

Capital costs \$4,000,000.00

Annual operating cost \$7,000,000.00

(B) To renovate and operate a six-bed unit:

Capital costs \$6,000,000.00

Annual operating cost

\$3,000,000.00

(b)(1) The department of buildings and general services, with broad involvement from the department of mental health and stakeholders, shall design a 25-bed hospital owned and operated by the state in central Vermont and proximate to an existing hospital. Using fast track methods, the department of buildings and general services shall supervise the construction of the hospital. The hospital shall be under the jurisdiction of the commissioner of mental health.

Capital costs estimated at

\$25,000,000.00

Annual operating cost estimated at \$12,500,000.00

(2) To foster coordination between the judiciary and mental health systems, the hospital owned and operated by the state shall contain:

(A) adequate capacity to accept individuals receiving a court order of hospitalization pursuant to 18 V.S.A. chapter 181; and

(B) a private room used and outfitted for the purpose of judicial proceedings.

(3) The commissioner of buildings and general services may purchase, lease for a period up to 99 years, or enter into a lease-purchase agreement for property in central Vermont for the purpose described in this subsection.

(4) The commissioner of buildings and general services shall inform the chairs and vice chairs of the senate committee on institutions and house committee on corrections and institutions prior to entering into an agreement pursuant to subdivision (3) of this subsection, upon substantial completion of a design pursuant to this section, prior to the commencement of construction, and when any other substantial step is taken in furtherance of this section.

(c)(1) The commissioner is authorized to contract for seven to 12 involuntary acute inpatient beds at Fletcher Allen Health Care until the state-managed hospital described in subsection (b) of this section is operational, to cover the increased cost of care, at an estimated annual cost of \$8,000,000.00; and

(2) If a viable setting is identified by the commissioner and licensed by the department of health, the commissioner is authorized to provide acute inpatient services at a temporary location until the hospital owned and operated by the state described in subsection (b) of this section is operational. The department shall pursue Medicare and Medicaid certification for any such hospital or facility.

(d) To the extent amounts of potential funding from various sources are not clear upon passage of this act, the legislative intent for funding the capital costs of this section is to the extent practicable first through insurance funds that may be available for these purposes; second through the Federal Emergency Management Agency (FEMA) funds that may be available for these purposes and any required state match; third through a rate payment with clearly defined terms of services; and last with state capital or general funds. It is also the intent of the general assembly that, notwithstanding 32 V.S.A. §§ 134 and 135, any capital funds expended for projects described in this act that are reimbursed at a later date by insurance or FEMA shall be reallocated to fund capital projects in a future act relating to capital construction and state bonding.

Third: In Sec. 10, subsection (a), by striking out the subsection in its entirety and inserting in lieu thereof the following:

(a) The commissioner of mental health is authorized to establish and oversee a secure five-bed residential facility owned and operated by the state for individuals no longer requiring acute inpatient care, but who remain in need of treatment within a secure setting for an extended period of time. The program shall be the least restrictive and most integrated setting for each of the individual residents:

Capital costs estimated at \$1,800,000.00

Annual operating cost estimated at \$2,000,000.00

Fourth: By striking Sec. 22 in its entirety

Fifth: By adding Sec. 37a before Sec. 37b (Legislative Intent) to read:

Sec. 37a. REDUCTION IN FORCE OF VERMONT STATE HOSPITAL
EMPLOYEES

(a) Permanent status classified employees who were officially subjected to a reduction in force (RIF) from their positions with the Vermont State Hospital, and who have not been reemployed with the state during the two-year reduction in force reemployment rights period, shall be granted reduction in force reemployment rights, in accordance with the provisions of the applicable collective bargaining agreement, but solely to vacant classified bargaining unit positions at any new state-owned and -operated psychiatric hospital, until the opening of such facility. All other contractual reduction in force reemployment terms and conditions shall apply.

(b) Permanent status classified employees who were officially subjected to a RIF from their positions with the Vermont State Hospital, and who have been

reemployed with the state during the two-year reduction in force reemployment rights period, shall each be granted one mandatory offer of reemployment, in accordance with the provisions of the applicable collective bargaining agreement, solely to the positions that they occupied at the Vermont State Hospital at the time they were subject to the reduction in force. An employee who accepts the mandatory offer of reemployment shall be transferred in accordance with the provisions of the applicable collective bargaining agreement.

Sixth: By adding Sec. 37b before Sec. 38 (Effective Dates) to read:

Sec. 37b. LEGISLATIVE INTENT

(a) It is the intent of the general assembly that the department of mental health contract with the Brattleboro Retreat for a 14-bed unit and with Rutland Regional Medical Center for a six-bed facility pursuant to Sec. 9 (a) of this act.

(b) It is the understanding of the general assembly that the proposal in Sec. 10(c)(2) of this act, the Brattleboro Retreat, Rutland Regional Medical Center, and an interim secure residential facility are to temporarily meet the immediate needs of the state.

Rep. Johnson of South Hero, for the committee on Appropriations, recommended the bill ought to pass when amended as recommended by the committee on Corrections and Institutions and when further amended as follows:

First: By striking the words “state-managed mental health hospital” in each instance in which it appears in the bill and inserting in lieu thereof the words “mental health hospital owned and operated by the state”

Second: In Sec. 9, INPATIENT HOSPITAL BEDS, subdivision (a)(2), in the first sentence, by striking out the words “at least”

Third: In Sec. 9, INPATIENT HOSPITAL BEDS, subdivision (b)(1), in the last sentence, before the word “hospital”, by adding the words “operations of the”

Fourth: In Sec. 9, INPATIENT HOSPITAL BEDS, subdivision (c)(1), by striking the words “state-managed hospital”, and inserting in lieu thereof the words “hospital owned and operated by the state”

Fifth: In Sec. 9, INPATIENT HOSPITAL BEDS, subsection (d), in the first sentence, by striking the word “is” after the words “capital costs of this section” and by adding the word “is” after the words “to the extent practicable”

Sixth: In Sec. 9, INPATIENT HOSPITAL BEDS, subsection (d), in the last sentence, by striking the words “is also”, and by inserting in lieu thereof the words “also is”

Seventh: In Sec. 14, 13 V.S.A. § 1501, by striking out the section in its entirety and inserting in lieu thereof the following:

Sec. 14. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

* * *

(b) A person who, while in lawful custody:

* * *

(4) escapes or attempts to escape from the Vermont ~~state hospital~~ State Hospital, or its successor in interest or a participating hospital, when confined by court order pursuant to chapter 157 of ~~Title 13 or chapter 199 of Title 18~~ this title, or when transferred there pursuant to ~~section 28 V.S.A. § 703 of Title 28~~ and while still serving a sentence, shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.

* * *

(d) As used in this section:

(1) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(2) “Participating hospital” means a hospital under contract with the department of mental health to participate in the no refusal system.

Eighth: In Sec. 21, 18 V.S.A. § 7206, by adding subsection (c) to read as follows:

(c) The commissioner of mental health shall report on or before January 15, 2013 to the senate committee on health and welfare and the house committee on human services using data collected under subsection (b) of this section, regarding whether the state should move forward with the plan for reforming Vermont’s mental health care system as proposed or whether alterations should be made to the plan and regarding the financial impacts of implementing the plan to date.

Ninth: In Sec. 33, REPORTS, in the first sentence, by striking the word “committee” after the word “house” and inserting in lieu thereof “committees”, and after the words “human services” adding the words “and on judiciary”

Tenth: In Sec. 34, APPROPRIATIONS, in the first sentence, after the word “duties”, by striking the comma

Eleventh: In Sec. 34, APPROPRIATIONS, in the first sentence, after the number “\$20,000.00” by striking “is appropriated from the general fund”, and inserting in lieu thereof “of the general funds appropriated to the department of mental health shall be transferred”

Twelfth: By striking Sec. 35 in its entirety and inserting in lieu thereof:

Sec. 35. Sec. B.301 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec. 14 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.301 Secretary’s office - global commitment

Grants	~~1,080,785,264~~	1,107,604,567

Total	~~1,080,785,264~~	1,107,604,567

Source of funds

General fund	~~139,267,121~~	135,947,833

Special funds	~~18,630,961~~	19,052,361

Tobacco fund	36,978,473	36,978,473

State health care resources fund	~~221,579,040~~	234,205,524

Catamount fund	~~23,948,700~~	25,226,979

Federal funds	~~639,692,834~~	655,505,262

Interdepartmental transfers	~~688,135~~	688,135

Total	~~1,080,785,264~~	1,107,604,567

Thirteenth: In Sec. 36, by striking “Sec. X”, and inserting in lieu thereof “Sec. 24”

Fourteenth: In Sec. 37, by striking “Sec. X”, and inserting in lieu thereof “Sec. 25”

Fifteenth: In Sec. 37b, subsection (b), by striking out “10(c)(2)” and inserting in lieu thereof “9(c)(2)”

Recess

At eleven o'clock and thirty-five minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At twelve o'clock and four minutes in the afternoon the Speaker called the House to order.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 630

Consideration resumed on House bill, entitled

An act relating to reforming Vermont's mental health system;

The recurring question, Shall the report of the committees on Corrections and Institutions and Appropriations be agreed to? was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Koch of Barre Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 124. Nays, 3.

Those who voted in the affirmative are:

Acinapura of Brandon	Courcelle of Rutland City	Hebert of Vernon
Ancel of Calais	Crawford of Burke	Helm of Fair Haven
Andrews of Rutland City	Dakin of Chester	Higley of Lowell
Aswad of Burlington	Davis of Washington	Hooper of Montpelier
Atkins of Winooski	Devereux of Mount Holly	Howard of Cambridge
Bartholomew of Hartland	Dickinson of St. Albans	Hubert of Milton
Batchelor of Derby	Town	Jerman of Essex
Bissonnette of Winooski	Donaghy of Poultney	Jewett of Ripton
Bohi of Hartford	Donovan of Burlington	Johnson of South Hero
Bouchard of Colchester	Edwards of Brattleboro	Johnson of Canaan
Branagan of Georgia	Ellis of Waterbury	Kilmartin of Newport City
Browning of Arlington	Emmons of Springfield	Kitzmiller of Montpelier
Burke of Brattleboro	Evans of Essex	Klein of East Montpelier
Campion of Bennington	Fagan of Rutland City	Koch of Barre Town
Canfield of Fair Haven	Fisher of Lincoln	Krebs of South Hero
Cheney of Norwich	Frank of Underhill	Kupersmith of South
Christie of Hartford	French of Shrewsbury	Burlington
Clark of Vergennes	French of Randolph	Lanpher of Vergennes
Clarkson of Woodstock	Gilbert of Fairfax	Larocque of Barnet
Condon of Colchester	Grad of Moretown	Lawrence of Lyndon
Consejo of Sheldon	Greshin of Warren	Lenes of Shelburne
Copeland-Hanzas of	Haas of Rochester	Leriche of Hardwick
Bradford	Head of South Burlington	Lewis of Berlin
Corcoran of Bennington	Heath of Westford	Lewis of Derby

Lippert of Hinesburg	Olsen of Jamaica	Spengler of Colchester *
Lorber of Burlington	O'Sullivan of Burlington	Stevens of Waterbury
Macaig of Williston	Pearce of Richford	Strong of Albany
Malcolm of Pawlet	Pearson of Burlington *	Stuart of Brattleboro
Marcotte of Coventry	Peltz of Woodbury	Taylor of Barre City
Marek of Newfane	Perley of Enosburgh	Till of Jericho
Martin of Springfield	Poirier of Barre City *	Toll of Danville
Martin of Wolcott	Pugh of South Burlington	Townsend of Randolph
Masland of Thetford	Ralston of Middlebury	Trieber of Rockingham
McCullough of Williston	Ram of Burlington	Turner of Milton
McFaun of Barre Town *	Reis of St. Johnsbury	Waite-Simpson of Essex
Miller of Shaftsbury	Russell of Rutland City	Webb of Shelburne
Mook of Bennington	Savage of Swanton	Wilson of Manchester
Moran of Wardsboro	Scheuermann of Stowe	Wizowaty of Burlington
Mrowicki of Putney *	Shand of Weathersfield	Woodward of Johnson
Munger of South Burlington	Sharpe of Bristol	Yantachka of Charlotte
Myers of Essex	Shaw of Pittsford	Young of Glover
Nuovo of Middlebury	Smith of New Haven	
O'Brien of Richmond	South of St. Johnsbury	

Those who voted in the negative are:

Burditt of West Rutland *	Eckhardt of Chittenden	Winters of Williamstown

Those members absent with leave of the House and not voting are:

Botzow of Pownal	Howrigan of Fairfield	Partridge of Windham
Brennan of Colchester	Keenan of St. Albans City	Peaslee of Guildhall
Buxton of Tunbridge	Komline of Dorset	Potter of Clarendon
Conquest of Newbury	Manwaring of Wilmington	Stevens of Shoreham
Deen of Westminster	McAllister of Highgate	Sweaney of Windsor
Degree of St. Albans City	McNeil of Rutland Town	Wright of Burlington
Donahue of Northfield	Morrissey of Bennington	Zagar of Barnard

Rep. Burditt of West Rutland explained his vote as follows:

“Mr. Speaker:

I want to say how impressed I was as to how this bill came together. The Human Services committee and especially my Chair worked diligently to get this bill out in the time frame the administration hoped for.

At one point in the process I was asked by our Chair what I thought of our progress. I did not think we would pull such an important bill together in such a short time period. At that point my opinion was it did not look much like a bill.

Madam Chair used the analogy of her husband's paintings. At first they really do not look like much, but as time goes on they become much clearer and

really quite beautiful. Much like this bill. Even though it is very, very impressive . . . I cannot hang this painting on my wall.

99% of this bill has 100% of my support. However, there are deal breakers I cannot ignore. I cannot and I will not gamble with Vermonters' tax dollars. Most important, I want to put people in the best mental health system available. After listening to hours of testimony a plan with 16 – 25 beds fits our needs.

The Governor's plan was for a 16-bed facility with the option of 25 if needed. It was a planned out "system" that enhanced community-based treatment that would service our needs with protection if 16 beds was not enough. This bill gives us 25 beds with enhanced community services.

Also, with a 25-bed facility the proposed community services have a good chance of being compromised because of limited funds. With 16 beds our community support will be intact.

Starting with a 16-bed facility we would continue to receive approximately \$10,000,000 of Global Commitment. Going over 16 puts that money in serious jeopardy. If that money is cut and 25 beds is too many, Vermont taxpayers will be supporting the cost of those 9 extra beds, plus the extra \$10 million Global Commitment.

Over the projected life of the hospital, in today's dollars not accounting for inflation, that is \$500 million in just lost Global Commitment . . plus millions for the unneeded beds. Well over half a billion dollars, needlessly paid for by Vermont taxpayers."

Rep. McFaun of Barre Town explained his vote as follows:

"Mr. Speaker:

I voted yes because I feel with this bill we have taken a giant step in meeting the needs of those in our state afflicted with mental illness. "

Rep. Mrowicki of Putney explained his vote as follows:

"Mr. Speaker:

My vote supports a transformative way to provide health care to those experiencing mental illness. I am pleased, at long last we are moving towards a more enlightened modality of more effectively serving our fellow Vermonters and pleased that so many voted for the increase in spending we will need to pay for these services."

Rep. Pearson of Burlington explained his vote as follows:

"Mr. Speaker:

It is a pleasure to support the good work of the several committees involved with this bill. And it is nice to see I have so many fine people keeping me company here in LaLa land.”

Rep. Poirier of Barre explained his vote as follows:

“Mr. Speaker:

I voted yes because, having worked for a patients’ rights group, I spent many days at the State Hospital. I applaud the committees for their work and for recognizing that people with severe mental health conditions should have the same access to treatment in state-of-the-art facilities rather than an 18th century dungeon that was depressing to patients regardless of how hard the staff were dedicated to their patients. This is another example of parity in our health care system.”

Rep. Spengler of Colchester explained her vote as follows:

“Mr. Speaker:

I trust as planning continues on the VSH replacement hospital, the wisdom of increasing the bed count will prevail to ensure the recovery of Vermonters suffering from acute mental illness.”

Remarks Journalized

On motion of **Rep. Fagan of Rutland City**, the following remarks by **Rep. Strong of Albany** were ordered printed in the Journal:

“Mr. Speaker:

Thank you, Mr. Speaker. I am sure that it was fate a little over a year ago that landed me here in seat 19 right in front of the Representative from Hartford. Over the past year we have worked hard together on this bill that allows a Gold Star plate to be given to family members whose soldier, while not dying in combat, lost their life while in service to their country in the armed forces.

Many of you know that I am a Gold Star Mother, as my 24 year old son, Marine Corps Sgt. Jesse Strong, was killed in an ambush by a rocket propelled grenade in Iraq on January 26, 2005. He and three other fine young Marines died with him in that ambush as they were securing the polls for the very first free Iraqi election. As his body was being shipped home to us here in Vermont, the Iraqi people tentatively stepped out of their homes for the first time to vote in their first democratic election. We are proud of our son's sacrifice for freedom and for the Iraqi people.

Since our son's death we have become acquainted with many other Gold

Star families and have shared with them our similar grief, pain, comfort, and pride as we have gone through the difficult grieving process.

I support this bill, as it gives the opportunity for families, whose beloved soldier died honorably while in active duty, but in non-combat related incidents, to also honor their loved one by having a distinctive Gold Star of their own on their license plate.

You may wonder why a simple symbol such as a Gold Star on a license plate could give a family such comfort and pride. Everyday when I drive with the Gold Star visible on my license plate, I feel that my son's sacrifice for freedom is not in vain. It is a small reminder to the public of what our freedom in this country has cost us. As Americans it is good for us to be reminded of those who have paid the ultimate sacrifice for freedom while defending and protecting us, and to support the families who have suffered this loss. The Gold Star is a small symbol of that sacrifice. I humbly ask the body to vote today in favor of this bill. Thank you.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 581

Rep. Pugh of South Burlington moved that the committee on Human Services be relieved of House bill, entitled

An act relating to reporting requirements of fuel suppliers under the home heating assistance program

And that the bill be committed to the committee on Commerce and Economic Development, which was agreed to.

Rules Suspended; Bill Committed

H. 751

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Lippert of Hinesburg**, the rules were suspended and House bill, entitled

An act relating to jurisdiction of delinquency proceedings;

Was taken up for immediate consideration.

Pending second reading of the bill, **Rep. Lippert of Hinesburg** moved to commit the bill to the committee on Judiciary, which was agreed to.

Remarks Journalized

On motion of **Rep. Leriche of Hardwick**, the following remarks by **Rep. Christie of Hartford** were ordered printed in the Journal:

“Mr. Speaker,

I would like to rise on a point of personal privilege.

My fellow Representatives, I would like to thank you for your support of “**H. 51**, Expanding the issuance of Gold Star registration plates”.

Bryon was a son, a great young Vermonter, an honor roll student, our football team, captain, my track team captain. He was also a proud Vermont Marine.

Before he passed away he shared his excitement and pride that he was being assigned to the Presidential Helicopter Unit. His family, friends, Hartford community members and fellow Vermonters will always be proud of our Vermont Marine.

His mom (Carol) and dad (Ed) will display their plate with pride.
I thank you all again for your support.

Adjournment

At twelve o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, February 3, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the State House Singers.

Message from the Senate No. 10

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 258. An act relating to public participation in environmental enforcement proceedings.

And has passed the same in concurrence with proposal of amendment in the

adoption of which the concurrence of the House is requested.

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

H. 505. An act relating to allowing the treasurer to defer the December 1, 2011 education payments to help towns affected by federal disasters in 2011 in Vermont.

And has passed the same in concurrence.

The Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 41. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

J.R.S. 42. Joint resolution relating to establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2012.

In the adoption of which the concurrence of the House is requested.

Committee Bill Introduced

H. 752

Rep. Deen of Westminster, for the committee on Fish, Wildlife & Water Resources, introduced a bill, entitled

An act relating to permitting stormwater discharges in impaired watersheds

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Committee Bill Introduced

H. 753

Rep. Donovan of Burlington, for the committee on Education, introduced a bill, entitled

An act relating to encouraging school districts and supervisory unions to provide services cooperatively or to consolidate governance structures

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Joint Resolution Adopted in Concurrence

J.R.S. 41

By Senator Campbell,

J.R.S. 41. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 16, 2012, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2012, and expiring on March 1, 2016. In case election of all such Trustees shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such Trustees are elected.

Was taken up read and adopted in concurrence.

Joint Resolution Placed on Calendar

J.R.S. 42

By Senator Campbell,

J.R.S. 42. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2012.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 16, 2012, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or both of the two vacant positions, then voting shall continue

on successive ballots for the unfilled position or positions until the vacancies have been filled by election declared of the two candidates receiving the greater number of votes.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

House Resolution Adopted

H.R. 15

House resolution, entitled

House resolution urging Vermonters to respect personal privacy in the dissemination of information heard on a public safety scanning receiver

Offered by: Representative Klein of East Montpelier

Whereas, it is not uncommon for individuals to own scanning receivers designed to monitor the transmissions of public safety agencies, and

Whereas, via the scanners, Vermonters listen to public safety transmissions for informational and hobbyist purposes, and

Whereas, public safety officials will on occasion broadcast information on scanner frequencies relating to the death or serious injury of an individual, be it due to natural causes or violent action, and

Whereas, although 13 V.S.A. § 3014 prohibits the use of information derived from a scanner transmission for criminal purposes, Vermont law is silent on the use of this information for noncriminal purposes, and

Whereas, the federal Electronic Privacy Act, codified as 18 U.S.C. § 2511, prohibits intercepting electronic transmissions by wire or radio, but the mere repetition of information heard on a scanner for noncriminal purposes does not appear to violate the act, and

Whereas, the officials broadcasting this highly personal information are often announcing its existence for the first time prior to the notification of next of kin, and

Whereas, public safety organizations and the military, in reporting events and incidents involving serious injury or death, typically delay releasing the names of persons injured or deceased until next of kin are duly notified, and

Whereas, an unofficial release of names of injured or deceased individuals, either to family members or the public, based on information derived from a public safety scanner transmission may cause great personal distress for the

next of kin who have yet to receive official notification from public safety officials, and

Whereas, the benefit the public derives from the use of police scanners depends on Vermonters upholding their responsibility to use any information so derived in a responsible and respectful way that honors the privacy of persons connected to the information, and

Whereas, a real-life example of the tragic consequences that can flow from third-party release of police scanner-transmitted information occurred on September 21, 2011, when Kendra Downen, residing out of state, learned from an acquaintance's text message of her father's sudden and unexpected death in Middlesex, and

Whereas, the message was triggered when a local merchant, who heard the information on a police scanner, informed his part-time employee of the death, and

Whereas, Kendra's younger sister, Allyson, did learn of the death from their mother, Penny Downen, but Ms. Downen was forced to call her younger daughter with little time to compose herself, and immediately after the phone call, Allyson's phone became filled with text messages, and

Whereas, local dispatchers may eventually be able to encode these types of messages to rescue squads with the use of digital technology, but the date of implementation of these new radio transmission systems is estimated to be at least five years from now, and

Whereas, the next of kin are entitled to learn of tragic news in the most dignified and private manner possible, now therefore be it

Resolved by the House of Representatives:

That this legislative body urges all Vermonters to respect the privacy of families whose relative's injury or death has been ascertained from a public safety scanner transmission and to allow the appropriate public safety officials or an initially contacted family member to convey properly the tragic news in a dignified and thoughtful manner, and be it further

Resolved: That the Clerk of the House be directed to send copies of this resolution to members of the Downen family in Middlesex.

Which was read and adopted.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 51

House bill, entitled

An act relating to expanding the issuance of gold star registration plates

H. 327

House bill, entitled

An act relating to the uniform principal and income act

H. 403

House bill, entitled

An act relating to foreclosure of mortgages

H. 413

House bill, entitled

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult

**Rules Suspended; Favorable Reports; Third Reading Ordered;
Rules Suspended; Bill Read the Third Time and Passed in
Concurrence; Rules Suspended and Bill was Ordered
Messaged to the Senate Forthwith**

S. 249

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to Vermont Strong commemorative motor vehicle plates;

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Courcelle of Rutland City, for the committee on Transportation, to which the bill had been referred reported in favor of its passage in concurrence.

Rep. Clarkson of Woodstock, for the committee on Ways and Means, recommended that the bill ought to pass in concurrence.

Rep. Helm of Fair Haven, for the committee on Appropriations, recommended that the bill ought to pass in concurrence.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committees on Transportation, Ways and Means and Appropriations agreed to and third reading ordered.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence. The bill was read the third time and passed in concurrence and, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Consideration Interrupted by Recess

H. 630

House bill, entitled

An act relating to reforming Vermont's mental health system

Was taken up and pending third reading of the bill, **Rep. Savage of Swanton** moved to amend the bill as follows:

First: In Sec. 9, INPATIENT HOSPITAL BEDS, by striking subdivision (a)(1) in its entirety and inserting in lieu thereof:

(1) Notwithstanding 18 V.S.A. chapter 221, subchapter 5, the department of mental health shall enter into contracts that meet the requirements of subdivision (2) of this subsection with a hospital in southeastern Vermont and a hospital in southwestern Vermont for the establishment of a 14-bed unit and a six-bed unit, respectively.

Second: In Sec. 9, INPATIENT HOSPITAL BEDS, subdivision (b)(1), after the first sentence, by adding the following sentence: "If the hospital owned and operated by the state is located contiguous to the Central Vermont Medical Center, the provisions of 18 V.S.A. chapter 221, subchapter 5 shall be waived."

Third: By adding Sec. 37c to read as follows:

Sec. 37c. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(v) No permit or permit amendment shall be required for construction of a 25-bed mental health hospital owned and operated by the state in central Vermont.

Recess

At ten o'clock and thirty minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Bill Read Third Time and Passed;
Rules Suspended and Bill Messaged to the Senate Forthwith**

H. 630

Consideration resumed on House bill, entitled

An act relating to reforming Vermont's mental health system;

Pending the question, Shall the House amend the bill as recommended by Rep. Savage of Swanton? **Rep. Savage of Swanton** asked and was granted leave of the House to withdraw the amendment, which was agreed to.

Thereupon, the bill was read the third time and passed.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Adjournment

At one o'clock and ten minuets in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, February 7, 2012 at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 43.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 252

House concurrent resolution recognizing the essential health care role of licensed pharmacists in Vermont;

H.C.R. 253

House concurrent resolution congratulating the Community College of Vermont on the opening of its new Rutland City campus;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, February 7, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Amy Pitton of Bethany Church, Montpelier, VT.

Pledge of Allegiance

Page Elijah Ransom of Bethel led the House in the Pledge of Allegiance.

Message from the Senate No. 11

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 44. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Senate has considered joint resolution originating in the House of the following title:

J.R.H. 22. Joint resolution urging each university and college in Vermont to establish offices to assist students who are United States military veterans.

And has adopted the same in concurrence.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 252. House concurrent resolution recognizing the essential health care role of licensed pharmacists in Vermont.

H.C.R. 253. House concurrent resolution congratulating the Community College of Vermont on the opening of its new Rutland City campus.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 754

By the committee on Ways and Means,

An act relating to the education property tax rate and base education amount for fiscal year 2013;

Under the rule, placed on the Calendar for notice.

H. 755

By the committee on Human Services,

An act relating to extending the deadline for adoption of certain health department rules;

Under the rule, placed on the Calendar for notice.

H. 756

By Reps. Greshin of Warren and Condon of Colchester,

House bill, entitled

An act relating to the sales and use tax exemption for packaging equipment;

To the committee on Ways and Means.

H. 757

By Reps. Young of Glover and Scheuermann of Stowe,

House bill, entitled

An act relating to a temporary moratorium on the enforcement of the sales tax on prewritten software that is accessed remotely;

To the committee on Ways and Means.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 745

Rep. Fisher of Lincoln moved that the committee on Health Care be relieved of House bill, entitled

An act relating to the Vermont prescription monitoring system

And that the bill be committed to the committee on Human Services, which was agreed to.

Bill Referred to Committee on Appropriations

H. 753

House bill, entitled

An act relating to encouraging school districts and supervisory unions to provide services cooperatively or to consolidate governance structures

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Senate Proposal of Amendment Concurred in**H. 258**

The Senate proposed to the House to amend House bill, entitled

An act relating to public participation in environmental enforcement proceedings

First: In Sec. 1, 10 V.S.A. § 8002, by striking out subdivisions 13 and 14 in their entirety and inserting in lieu thereof the following:

(13) “Civil complaint” means an environmental citation issued by the secretary or the board for a violation of a statute listed under subsection 8003(a) of this title.

(14) “Federally authorized or delegated program” means an area of environmental regulation where the U.S. Environmental Protection Agency has authorized or delegated to Vermont primary regulatory responsibility, including the Clean Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act.

(15) “Post” means:

(A) placing a draft administrative order, assurance of discontinuance, or civil complaint or a final administrative order, assurance of discontinuance, or civil complaint on the website of the secretary if he or she initiates an enforcement action under this chapter or on the website of the board if it initiates an enforcement action; and

(B) providing public notice about the opportunity to:

(i) submit written comments regarding a draft administrative order, assurance of discontinuance, or civil complaint; or

(ii) request intervention in a final administrative order, assurance of discontinuance, or civil complaint.

Second: By Striking out Sec. 6 in its entirety and inserting in lieu thereof the following:

Sec. 6. 10 V.S.A. § 8020 is added to read:

§ 8020. PUBLIC PARTICIPATION IN ENFORCEMENT

(a) Aggrieved person. As used in this section, an “aggrieved person” means a person who alleges an injury to a particularized interest protected by a statute listed under subsection 8003(a) of this section, and the alleged injury is attributable to a violation addressed by an assurance of discontinuance, administrative order, emergency order, or civil complaint issued under this

chapter. An organization or association is an aggrieved person under this section when one or more of its members would be an aggrieved person in his or her own right, the interests at stake are germane to the purposes of the organization or association, and neither the claim asserted nor the relief requested by the organization or association requires participation of the individual member.

(b) Draft and final action. Prior to issuing an administrative order, assurance of discontinuance, or civil complaint under this chapter and sending it to the environmental division, the secretary or the board shall post a draft copy of the administrative order, assurance of discontinuance, or civil complaint for public notice and written comment for 30 days. At the conclusion of the 30-day notice and written comment period, the secretary or the board shall evaluate the proposed action pursuant to the written comments received. After the evaluation of the written comments, the secretary or the board may withdraw an administrative order, assurance of discontinuance, or civil complaint. At the conclusion of the 30-day notice period, if no comments have been received, the secretary or the board shall file the draft as a final administrative order, assurance of discontinuance, or civil complaint with the environmental division, and the environmental division may review and approve as an order of the court the administrative order, assurance of discontinuance, or civil complaint as set out elsewhere in this chapter. When the secretary or board issues a final administrative order, assurance of discontinuance, or civil complaint, it shall be sent to the environmental division along with any written comments received during the 30-day comment period. Concurrent with filing with the environmental division, the secretary or board shall post the final proposed action for public notice for 14 days.

(c) Filing with court. The environmental division shall hold the administrative order, assurance of discontinuance, or civil complaint for 14 days from the date of filing to allow any person who has filed written comments under subsection (b), who is not satisfied with the final action of the agency or the board, and who meets the definition of “aggrieved person” under subsection (a) of this section to file a motion for permissive intervention pursuant to the procedure in Rule 24(c) of the Vermont Rules of Civil Procedure.

(d) Court action without motion to intervene. At the conclusion of the 14-day period, if no motion to intervene has been filed, the environmental division shall take into consideration any comments received and in its discretion, with or without a hearing, shall issue an order to affirm, vacate, or

remand the administrative order, assurance of discontinuance, or civil complaint.

(e) Condition precedent to intervention. In order for a person to intervene permissively in an administrative order, assurance of discontinuance, or civil complaint, the person shall have filed written comments with the agency or board setting out the specific objection to the proposed action during the 30-day comment period required under subsection (b) of this section.

(f) Court action upon motion to intervene. A motion for permissive intervention shall clearly state the basis for the claim that the administrative order, assurance of discontinuance, or civil complaint is insufficient to carry out the purposes of this chapter. A hearing may be held on the motion for permissive intervention in the discretion of the environmental division. When the environmental division determines that a motion to intervene fails to meet the requirements for permissive intervention, the court shall deny the motion.

(g) Emergency administrative order. When the secretary issues an emergency administrative order, the prefiling public notice and comment provisions contained in this section shall not apply. The environmental division, without comment or hearing, shall act on the emergency administrative order as required by section 8009 of this title and may issue its own order. The secretary shall publish the emergency administrative order concurrent with filing it with the environmental division. A person shall have 14 days from the date the emergency administrative order is filed to file a motion for permissive intervention. A motion to intervene shall not stay an emergency administrative order.

(h) Standard of review on motion to intervene. The environmental division shall evaluate a motion from an aggrieved person for permissive intervention in light of Rule 24(b)(1) of the Vermont Rules of Civil Procedure. When the environmental division permits an aggrieved person to intervene, it shall be for the sole purpose of establishing that the terms of an administrative order, emergency administrative order, assurance of discontinuance, or civil complaint are insufficient to carry out the purposes of this chapter. The intervenor shall have the burden of proof by a preponderance of the evidence that the administrative order, emergency administrative order, assurance of discontinuance, or civil complaint is insufficient to carry out the purposes of this chapter. A hearing may be held on the claim that the administrative order, emergency administrative order, assurance of discontinuance, or civil complaint is insufficient to carry out the purposes of this chapter in the discretion of the environmental division. The environmental division upon finding that the proposed action is insufficient to carry out the purposes of this

chapter shall inform the parties in writing and shall include the basis of its decision and shall vacate the proposed action.

(i) Authority of secretary to object. The secretary or board shall not oppose any motion filed for permissive intervention. When the environmental division permits a person to intervene, the secretary, the board, or the respondent may oppose the intervenor's claim that the proposed action is insufficient to carry out the purposes of this chapter.

(j) Response to citizen complaints. The secretary shall investigate all citizen complaints of a violation of a federally authorized or delegated program and shall respond to known complainants in writing.

Third: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. 10 V.S.A. § 8021 is added to read:

§ 8021. COST RECOVERY

(a) In addition to any existing authority, the secretary, in issuing an administrative order, emergency order, or assurance of discontinuance under this chapter, may recover monies expended from a special fund for a cleanup related to an environmental violation, provided that such recovered monies not exceed \$20,000.00.

(b) When monies are recovered under this section, they shall be deposited into the special fund from which they were expended.

Fourth: By striking out Sec. 11 and 12 in their entirety and inserting in lieu thereof the following:

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Which proposal of amendment was considered and concurred in.

Joint Resolution Adopted in Concurrence

J.R.S. 42

Joint resolution, entitled

Joint resolution relating to establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2012

Was taken up and adopted in concurrence.

Adjournment

At ten o'clock and thirty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, February 8, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rabbi Tobie Wiesman of the Yearning for Learning Center for Jewish Studies, Montpelier, VT.

Bill Referred to Committee on Ways and Means**H. 512**

House bill, entitled

An act relating to banking, insurance, securities, and health care administration

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Joint Resolution Referred to Committee**J.R.H. 23**

Joint resolution expressing deep concern over the growing inequality in wealth and income in Vermont

Offered by: Representatives Davis of Washington, Pearson of Burlington, Burke of Brattleboro, Edwards of Brattleboro, Fisher of Lincoln, Haas of Rochester, Lippert of Hinesburg, Masland of Thetford, McCullough of Williston, Moran of Wardsboro, Mrowicki of Putney, Poirier of Barre City, Sharpe of Bristol, Wizowaty of Burlington and Woodward of Johnson

Whereas, societal cohesiveness and unity is dependent on a set of common economic aspirations and a belief that all Vermonters have an equal opportunity to support themselves and their families in a dignified and sustainable manner, and

Whereas, Vermont's constitution, including the first prohibition of slavery and "common benefits" clause, highlights our commitment to basic human rights and equal opportunity, and

Whereas, some inequality is inevitable, but the disparity of wealth and income must not be so great as to provoke animus or despair, and inequality of historic proportions is also the result of conscious public policy choices that can be identified and reversed, and

Whereas, both the *New York Times* and Reuters news agency report that in America income inequality is now greater than it has been since the 1920s just before the Great Depression, and

Whereas, the Congressional Budget Office reported in October 2011 that the wealthiest one percent of the population more than doubled its share of America's income over the last three decades, and federal government policy encouraged economic disparity partly by shifting away from progressive income taxes, and

Whereas, Nobel Prize-winning economist Joseph Stiglitz has written in *Vanity Fair* magazine that the wealthiest one percent of Americans now receives one-quarter of the nation's income and controls 40 percent of its wealth, while those in the middle saw their incomes fall, and economist and former U.S. Labor Secretary Robert Reich reports at Salon.com that those in the bottom 90 percent of earners, if employed, today earn on average about \$280.00 more each year than 30 years ago, adjusted for inflation; a less than one-percent gain, and

Whereas, economist Emmanuel Saez, a 2010 MacArthur Foundation genius award winner, and economics professor at the University of California, Berkeley, co-authored a 2011 article in the *Journal of Economic Literature* entitled "Top Incomes in the Long Run of History," in which the writers documented that during the years 2002–2007, 65 percent of the total income growth in the United States was captured by the top one percent of income earners, and

Whereas, in September 2011, the United States Census Bureau reported that the median household income in the United States declined to 1996 levels, and Harvard University economics professor, Lawrence Katz, stated, "We think of America as a place where every generation is doing better, but we're looking at a period when the median family is in worse shape than it was in the late 1990s," and

Whereas, the Pew Charitable Trusts has published a report entitled "Economic Mobility of Men and Women," written by Julia Isaacs of the Brookings Institution that found the median income for men ages 30–39 actually fell by 12 percent between 1974 and 2004, from \$40,000.00 a year to about \$35,000.00 a year, inflation adjusted, and

Whereas, the Organization for Economic Co-operation and Development finds in a time line comparison from the mid-1980s to the late 2000s that the United States has the second highest Gini coefficient of income inequality increase, at almost 0.40 and second only to Mexico, and

Whereas, the Pew Charitable Trusts, in a report entitled “Chasing the Same Dream, Climbing Different Ladders: Economic Mobility in the United States and Canada,” states that sons of Canadian fathers in the bottom one-third of the earnings distribution are more likely to make it to the top one-half of the distribution in adulthood than are sons of comparably low-earning American fathers, and

Whereas, the research shows that income and wealth inequality has grown faster in Vermont than in the nation as a whole, and

Whereas, a University of New Hampshire study by Ross Gittel and Jason Rudokas reported that between 1989 and 2004, Vermont was one of the top five states ranked for increased income disparity, and

Whereas, according to the United States Census Bureau (Census), Vermont’s median household income dropped seven percent between 2008 and 2010, and

Whereas, on September 30, 2009, WCAX News reported that according to the Census, over the years 2007–2008, “Vermont had the biggest drop in household income” of any state in the country, and

Whereas, the Public Assets Institute found that in 2009, the median household income in Vermont was just two percent higher than it had been 20 years earlier, so after adjusting for inflation, a Vermont household in 2009 survived on nearly the same income as it did in 1989, and

Whereas, the U.S. Census Bureau’s American Community Survey for 2006–2010 found that in greater Burlington, the middle class is shrinking nearly 10 times faster than nearly anywhere else in the country, and

Whereas, a 2010 analysis by the University of Massachusetts Political Economy Research Institute found increasing inequality makes low and middle income households poorer, and even if the overall economy is expanding, prosperity does not trickle down; instead, the income of low and middle income households falls as income disparity rises, and

Whereas, growing economic inequality hurts us all because it deprives people of basic needs – housing, food, heat, and health care—and steals their dignity and hopes for the future, and because when incomes drop and people

are out of work, they cannot pay their bills or generate tax revenues, instead relying on social programs and putting pressure on the state budget, and

Whereas, this hurts local businesses because businesses need customers, and people cannot spend money they do not have, and because increasing inequality undermines the potential for a real economic recovery, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its awareness of and deep concern over the growing inequality in wealth and income in Vermont and its impact on Vermont families and our Vermont economy, and be it further

Resolved: That the General Assembly is committed to reducing income and wealth inequality by rejecting policies that increase disparity and to supporting policies that close the wealth and income gap and increase economic opportunities for all Vermonters.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on General, Housing and Military Affairs.

Joint Resolution Adopted in Concurrence

J.R.S. 44

By Senators Carris and Mullin,

J.R.S. 44. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, February 9, 2012, or, Friday, February 10, 2012, it be to meet again no later than Tuesday, February 14, 2012.

Was taken up read and adopted in concurrence.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 699

Rep. Klein of East Montpelier moved that the committee on Natural Resources and Energy be relieved of House bill, entitled

An act relating to scrap metal processors

And that the bill be committed to the committee on Commerce and Economic Development, which was agreed to.

Bill Read Second Time; Third Reading Ordered**H. 752**

Rep. Deen of Westminster spoke for the committee on Fish, Wildlife & Water Resources.

House bill entitled

An act relating to permitting stormwater discharges in impaired watersheds

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra MacLean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the thirtieth day of January, 2012, he approved and signed a bill originating in the House of the following title:

H. 493 An act relating to approval of amendments to the charter of the city of South Burlington

Adjournment

At one o'clock and thirty minutes in the afternoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, February 9, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Peter Gilbert, Executive Director of the Vermont Humanities Council.

Message from the Senate No. 12

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 181. An act relating to school resource officers.

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

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 36. Senate concurrent resolution in memory of Rutland Regional Planning Commission Executive Director Mark Blucher.

Senate Bill Referred

S. 181

Senate bill, entitled

An act relating to school resource officers

Was read and referred to the committee on Education.

Third Reading; Bill Passed

H. 752

House bill, entitled

An act relating to permitting stormwater discharges in impaired watersheds

Was taken up, read the third time and passed.

Bill Read Second Time; Consideration Interrupted by Recess

H. 754

Rep. Sharpe of Bristol spoke for the committee on Ways and Means.

House bill entitled

An act relating to the education property tax rate and base education amount for fiscal year 2013

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Reps. Sharpe of Bristol and Olsen of Jamaica** moved to amend the bill as follows:

By adding a Sec. 3a to read as follows:

Sec. 3a. GENERAL FUND TRANSFER BASE CALCULATION

(a) At the end of fiscal year 2013 and at the end of any following fiscal year, notwithstanding 32 V.S.A. §§ 308c and 308d, after the general fund budget stabilization reserve attains its statutory maximum, one-half of any additional unreserved and undesignated general fund balance shall be added to the amount transferred to the education fund until the joint fiscal committee has determined that the goal in subsection (c) of this section has been met.

(b) Notwithstanding any other provision of law, an amount equal to the amount transferred to the education fund under subsection (a) of this section shall be added to the base amount used to calculate the general fund transfer under 16 V.S.A. § 4025(a)(2) for the following fiscal year.

(c) It is the intent of the general assembly to gradually return to the adjusted amount of the general fund transfer, as increased annually under the formula prescribed by 16 V.S.A. § 4025(a)(2), that would have been used but for the changes in Sec. E.513.1 of No. 63 of the Acts of 2011. The joint fiscal committee shall determine when the increases to the base amount in 16 V.S.A. § 4025(a)(2) made under subsection (b) of this section have attained the goal stated in this subsection.

(d) The joint fiscal office shall report to the joint fiscal committee at least annually on the progress made under this section in returning to the base amount of the general fund transfer to the education fund under 16 V.S.A. § 4025(a)(2) of \$280,200,000, as increased by the inflationary index in that section, starting in fiscal year 2008.

Recess

At one o'clock and forty-five minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and twenty-five minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 754

Consideration resumed on House bill entitled

An act relating to the education property tax rate and base education amount for fiscal year 2013;

Pending the question, Shall the bill be amended as recommended by Reps. Sharpe of Bristol and Olsen of Jamaica? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question,

Shall the bill be amended as recommended by Reps. Sharpe of Bristol and Olsen of Jamaica? was decided in the affirmative. Yeas, 140. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon	Fagan of Rutland City	McCullough of Williston
Ancel of Calais	Fisher of Lincoln	McFaun of Barre Town
Andrews of Rutland City	Frank of Underhill	McNeil of Rutland Town
Atkins of Winooski	French of Shrewsbury	Miller of Shaftsbury
Bartholomew of Hartland	French of Randolph	Mook of Bennington
Batchelor of Derby	Gilbert of Fairfax	Moran of Wardsboro
Bissonnette of Winooski	Grad of Moretown	Mrowicki of Putney
Bohi of Hartford	Greshin of Warren	Munger of South Burlington
Botzow of Pownal	Haas of Rochester	Myers of Essex
Bouchard of Colchester	Head of South Burlington	Nuovo of Middlebury
Branagan of Georgia	Heath of Westford	O'Brien of Richmond
Brennan of Colchester	Helm of Fair Haven	Olsen of Jamaica
Browning of Arlington	Higley of Lowell	O'Sullivan of Burlington
Burditt of West Rutland	Hooper of Montpelier	Partridge of Windham
Burke of Brattleboro	Howard of Cambridge	Pearce of Richford
Buxton of Tunbridge	Hubert of Milton	Pearson of Burlington
Campion of Bennington	Jerman of Essex	Peltz of Woodbury
Canfield of Fair Haven	Jewett of Ripton	Perley of Enosburgh
Cheney of Norwich	Johnson of South Hero	Poirier of Barre City
Christie of Hartford	Johnson of Canaan	Potter of Clarendon
Clark of Vergennes	Kilmartin of Newport City	Pugh of South Burlington
Clarkson of Woodstock	Kitzmiller of Montpelier	Ralston of Middlebury
Condon of Colchester	Klein of East Montpelier	Ram of Burlington
Conquest of Newbury	Koch of Barre Town	Reis of St. Johnsbury
Consejo of Sheldon	Krebs of South Hero	Russell of Rutland City
Copeland-Hanzas of	Kupersmith of South	Savage of Swanton
Bradford	Burlington	Scheuermann of Stowe
Corcoran of Bennington	Lanpher of Vergennes	Shand of Weathersfield
Courcelle of Rutland City	Larocque of Barnet	Sharpe of Bristol
Crawford of Burke	Lawrence of Lyndon	Shaw of Pittsford
Dakin of Chester	Lenes of Shelburne	Smith of New Haven
Davis of Washington	Leriche of Hardwick	South of St. Johnsbury
Deen of Westminster	Lewis of Berlin	Spengler of Colchester
Degree of St. Albans City	Lewis of Derby	Stevens of Waterbury
Devereux of Mount Holly	Lippert of Hinesburg	Stevens of Shoreham
Dickinson of St. Albans	Lorber of Burlington	Strong of Albany
Town	Macaig of Williston	Stuart of Brattleboro
Donaghy of Poultney	Malcolm of Pawlet	Sweaney of Windsor
Donahue of Northfield	Manwaring of Wilmington	Taylor of Barre City
Donovan of Burlington	Marcotte of Coventry	Till of Jericho
Eckhardt of Chittenden	Marek of Newfane	Toll of Danville
Edwards of Brattleboro	Martin of Springfield	Townsend of Randolph
Ellis of Waterbury	Martin of Wolcott	Trieber of Rockingham
Emmons of Springfield	Masland of Thetford	Turner of Milton
Evans of Essex	McAllister of Highgate	Waite-Simpson of Essex

Webb of Shelburne
Wilson of Manchester
Winters of Williamstown

Wizowaty of Burlington
Woodward of Johnson
Yantachka of Charlotte

Young of Glover
Zagar of Barnard

Those who voted in the negative are:

none

Those members absent with leave of the House and not voting are:

Aswad of Burlington
Hebert of Vernon
Howrigan of Fairfield

Keenan of St. Albans City
Komline of Dorset
Morrissey of Bennington

Peaslee of Guildhall
Wright of Burlington

Pending the question, Shall the bill be read the third time? **Reps. Browning of Arlington and Scheuermann of Stowe** moved to amend the bill as follows:

First: In Sec. 1 (fiscal year 2013 education property tax rates), in subdivision (a)(1), by striking out “\$1.37” and inserting in lieu thereof “\$1.34” and, in subdivision (a)(2), by striking out “\$0.88” and inserting in lieu thereof “\$0.85”

Second: By adding a Sec. 3a to read:

Sec. 3a. REPEAL

Sec. E.513.1 of No. 63 of the Acts of 2011 is repealed.

Pending the question, Shall the bill be amended as recommended by Reps. Browning of Arlington and Scheuermann of Stowe? **Rep. Browning of Arlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Reps. Browning of Arlington and Scheuermann of Stowe? was decided in the negative. Yeas, 48. Nays, 94.

Those who voted in the affirmative are:

Andrews of Rutland City
Batchelor of Derby
Bouchard of Colchester
Brennan of Colchester
Browning of Arlington
Burditt of West Rutland
Canfield of Fair Haven
Clark of Vergennes
Consejo of Sheldon
Crawford of Burke
Davis of Washington
Degree of St. Albans City
Devereux of Mount Holly

Dickinson of St. Albans Town
Donaghy of Poultney
Donahue of Northfield *
Eckhardt of Chittenden
Fagan of Rutland City
Higley of Lowell
Howard of Cambridge
Hubert of Milton
Kilmartin of Newport City
Koch of Barre Town
Komline of Dorset
Larocque of Barnet

Lawrence of Lyndon
Lewis of Berlin
Lewis of Derby *
Manwaring of Wilmington *
Marcotte of Coventry
McAllister of Highgate
McFaun of Barre Town
McNeil of Rutland Town
Moran of Wardsboro
Myers of Essex
Olsen of Jamaica
Perley of Enosburgh
Poirier of Barre City

Reis of St. Johnsbury
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford

Smith of New Haven
South of St. Johnsbury
Strong of Albany
Townsend of Randolph

Turner of Milton
Waite-Simpson of Essex

Those who voted in the negative are:

Acinapura of Brandon
Ancel of Calais
Aswad of Burlington
Atkins of Winooski
Bartholomew of Hartland
Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Branagan of Georgia
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Condon of Colchester
Conquest of Newbury
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Courcelle of Rutland City
Dakin of Chester
Deen of Westminster
Donovan of Burlington
Edwards of Brattleboro
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fisher of Lincoln
Frank of Underhill
French of Shrewsbury *
French of Randolph

Gilbert of Fairfax
Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington
Heath of Westford
Helm of Fair Haven
Hooper of Montpelier
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Johnson of Canaan
Kitzmiller of Montpelier
Klein of East Montpelier
Krebs of South Hero
Kupersmith of South
Burlington
Lanpher of Vergennes
Lenes of Shelburne
Leriche of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Macaig of Williston
Malcolm of Pawlet
Marek of Newfane
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCullough of Williston
Miller of Shaftsbury
Mook of Bennington
Mrowicki of Putney

Munger of South Burlington
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearce of Richford
Pearson of Burlington
Peltz of Woodbury
Potter of Clarendon
Pugh of South Burlington
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Shand of Weathersfield
Sharpe of Bristol *
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toll of Danville
Trieber of Rockingham
Webb of Shelburne *
Wilson of Manchester
Winters of Williamstown
Wizowaty of Burlington
Woodward of Johnson
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

Those members absent with leave of the House and not voting are:

Hebert of Vernon
Howrigan of Fairfield

Keenan of St. Albans City
Morrissey of Bennington

Peaslee of Guildhall
Wright of Burlington

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

I see this amendment as purely about transparency to the taxpayers of Vermont. We owe that to them.”

Rep. French of Shrewsbury explained his vote as follows:

“Mr. Speaker:

Everyone would like to have lower property taxes. This amendment does not account for what services the money from the general fund will reduce or eliminate. Nor does it assure that property taxes for a particular town would be lowered. Only school budgets can do that. The Sharpe/Olson amendment, which has unanimous support, replenishes the education fund in a more responsible way.”

Rep. Lewis of Derby explained his vote as follows:

“Mr. Speaker:

I voted yes. With a budget in the billions, what is \$27,000? Wouldn’t it be nice for once to go home and tell people that we reduced their property taxes for a change instead of increasing them again.”

Rep. Manwaring of Wilmington explained her vote as follows:

“Mr. Speaker:

Under the present education funding system the state resorts to blunt instruments to influence local spending. It is my belief that we need a new conversation around education funding. How does the \$1.3 billion we spend relate to outcomes for our children. It seems enough money to have a world-class education for all Vermont children. So, I chose to violate another personal belief to not support programs whose funding is not identified. I use this vote as a blunt tool to raise awareness of the need to move on to the larger conversation . . . and that is what are we buying for all our children for \$1.3 billion? After all, it is difficult to argue that any expenditure of public money is a more important public good than education.”

Rep. Sharpe of Bristol explained his vote as follows:

“Mr. Speaker:

This amendment, if passed, would have reduced taxes for penny rate homestead and non-residential taxpayers only and it would have further shifted the tax responsibility on those residents who pay education taxes based on their income.”

Rep. Webb of Shelburne explained her vote as follows:

“Mr. Speaker:

I am always interested in property tax relief. I know my community wants it. But this amendment does not guarantee that and neither committee of jurisdiction on a bipartisan basis could support it. The better alternative is to restore the full general fund transfer. This needs to be done in a responsible manner as we just did in the previous amendment.”

Pending the question, Shall the bill be read a third time? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 101. Nays, 42.

Those who voted in the affirmative are:

Acinapura of Brandon	Fisher of Lincoln	Masland of Thetford
Ancel of Calais	Frank of Underhill	McCullough of Williston
Andrews of Rutland City	French of Shrewsbury	Miller of Shaftsbury
Aswad of Burlington	French of Randolph	Mook of Bennington
Atkins of Winooski	Gilbert of Fairfax	Moran of Wardsboro
Bartholomew of Hartland	Grad of Moretown	Mrowicki of Putney
Bissonnette of Winooski	Greshin of Warren	Munger of South Burlington
Bohi of Hartford	Haas of Rochester	Nuovo of Middlebury
Botzow of Pownal	Head of South Burlington	O'Brien of Richmond
Branagan of Georgia	Heath of Westford	O'Sullivan of Burlington
Burke of Brattleboro	Helm of Fair Haven	Partridge of Windham
Buxton of Tunbridge	Hooper of Montpelier	Pearce of Richford
Campion of Bennington	Jerman of Essex	Pearson of Burlington
Cheney of Norwich	Jewett of Ripton	Peltz of Woodbury
Christie of Hartford	Johnson of South Hero	Poirier of Barre City
Clarkson of Woodstock	Johnson of Canaan	Potter of Clarendon
Condon of Colchester	Kitzmiller of Montpelier	Pugh of South Burlington
Conquest of Newbury	Klein of East Montpelier	Ralston of Middlebury
Copeland-Hanzas of Bradford	Krebs of South Hero	Ram of Burlington
Corcoran of Bennington	Kupersmith of South Burlington	Russell of Rutland City
Courcelle of Rutland City	Lanpher of Vergennes	Shand of Weathersfield
Dakin of Chester	Lenes of Shelburne	Sharpe of Bristol
Davis of Washington	Leriche of Hardwick	Spengler of Colchester
Deen of Westminster	Lippert of Hinesburg	Stevens of Waterbury
Donahue of Northfield	Lorber of Burlington	Stevens of Shoreham
Donovan of Burlington	Macaig of Williston	Stuart of Brattleboro
Edwards of Brattleboro	Malcolm of Pawlet	Sweaney of Windsor
Ellis of Waterbury	Marek of Newfane	Taylor of Barre City
Emmons of Springfield	Martin of Springfield	Till of Jericho
Evans of Essex	Martin of Wolcott	Toll of Danville
		Townsend of Randolph

Trieber of Rockingham
 Waite-Simpson of Essex
 Webb of Shelburne
 Wilson of Manchester

Winters of Williamstown
 Wizowaty of Burlington
 Woodward of Johnson
 Yantachka of Charlotte

Young of Glover
 Zagar of Barnard

Those who voted in the negative are:

Batchelor of Derby
 Bouchard of Colchester
 Brennan of Colchester
 Browning of Arlington *
 Burditt of West Rutland
 Canfield of Fair Haven
 Clark of Vergennes
 Consejo of Sheldon
 Crawford of Burke
 Degree of St. Albans City
 Devereux of Mount Holly
 Dickinson of St. Albans
 Town
 Donaghy of Poultney
 Eckhardt of Chittenden

Fagan of Rutland City
 Higley of Lowell
 Howard of Cambridge
 Hubert of Milton
 Kilmartin of Newport City
 Koch of Barre Town
 Komline of Dorset
 Larocque of Barnet
 Lawrence of Lyndon
 Lewis of Berlin
 Lewis of Derby *
 Manwaring of Wilmington
 Marcotte of Coventry
 McAllister of Highgate
 McFaun of Barre Town

McNeil of Rutland Town
 Myers of Essex
 Olsen of Jamaica
 Peaslee of Guildhall
 Perley of Enosburgh
 Reis of St. Johnsbury
 Savage of Swanton
 Scheuermann of Stowe
 Shaw of Pittsford
 Smith of New Haven
 South of St. Johnsbury
 Strong of Albany
 Turner of Milton

Those members absent with leave of the House and not voting are:

Hebert of Vernon
 Howrigan of Fairfield

Keenan of St. Albans City
 Morrissey of Bennington

Wright of Burlington

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I vote no because I oppose this increase in broad-based tax rates and I also protest the absurd statutory charade that allows us to raise tax rates while claiming to lower them. This practice is neither transparent nor accountable.”

Rep. Lewis of Derby explained his vote as follows:

“Mr. Speaker:

I did say 27,000 I meant 27 million. Woops.”

Bill Read Second Time; Bill Amended and Third Reading Ordered

H. 755

Rep. Frank of Underhill spoke for the committee on Human Services.

House bill entitled

An act relating to extending the deadline for adoption of certain health department rules

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Frank of Underhill** moved to amend the bill as follows:

By striking out "January 1, 2013" and inserting in lieu thereof the following "March 1, 2013"

Which was agreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

H. 565

Rep. Young of Glover, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to regulating licensed lenders and mortgage loan originators

Reported in favor of its passage when amended as follows:

First: In Sec. 2, 8 V.S.A. § 2201, in subdivision (d)(10), by striking "\$50,000.00" and inserting in lieu thereof "\$75,000.00"

Second: In Sec. 2, 8 V.S.A. § 2201, in subdivision (e)(1), by striking "2200(19)" and inserting in lieu thereof "2200(22)"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce and Economic Development agreed to and third reading ordered.

Message from the Senate No. 13

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 558. An act relating to fiscal year 2012 budget adjustment.

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

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 45. Joint resolution expressing sincere appreciation to Margaret Lucenti for her dedicated public service.

In the adoption of which the concurrence of the House is requested.

Adjournment

At four o'clock and forty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, February 10, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Jonathan Spaeth, Kyle Boomhower, Michael Fraser and Mark Furland of Eagle Scout Troop 635 from Essex and Rep. Kevin Christie.

Memorial Service

The Speaker placed before the House the following name of member of past sessions of the Vermont General Assembly who had passed away recently:

Paul U. Bergeron of Colchester House member in the Sessions of 1977 & 1979

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased members. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved families.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the Speaker recognized the following named Pages who are completing their service today and presented them with commemorative pins:

Josselyne Blakely of Barre
Nina Brundage of Waterbury
Isabel Colby of Wocester
Thunder Keck of Montpelier
Katherine Massell of Burlington
Sally Matson of Burlington
Ethan McCollister of Montpelier
Elijah Ransom of Bethel
Megan Walker of Cabot
Gretchen Wright of Jericho

Joint Resolution Placed on Calendar**J.R.S. 45**

By the Committee on Judiciary,

J.R.S. 45. Joint resolution expressing sincere appreciation to Margaret Lucenti for her dedicated public service.

Whereas, Margaret Lucenti is an ardent adherent to the principle that civic participation is a societal duty, and

Whereas, this commitment to social justice resulted in her appointment as the original volunteer chair of the Vermont Commission on Human Rights, and

Whereas, Margaret Lucenti's desire to improve society inspired her to pursue political and electoral paths as Vice Chair of the Vermont Democratic Party and as a candidate for a seat in the Vermont House and Senate and the United States Congress, and

Whereas, on the local level, she has served as a justice of the peace in Montpelier and over the years presided at many weddings, and

Whereas, Margaret Lucenti, who has a steel-lined stamina, wished to continue participating in the workforce and be a contributor to the public policy process, even after she reached the typical retirement age, and

Whereas, to fulfill this worthy ambition, Margaret Lucenti sought employment as a committee assistant at the General Assembly, and deemed eminently qualified for this position, she was hired to work with the Senate Committee on Judiciary, a fitting assignment for a woman dedicated to the rule of law as an avenue to achieve social justice, and

Whereas, Margaret Lucenti proved an excellent choice as she performed her duties with great competence and punctuality and won the respect of all senators, regardless of their partisan persuasion, and

Whereas, the administrative details associated with scheduling and preparing meetings and hearings of the Senate Committee on Judiciary were always in the best possible hands under Margaret Lucenti's careful scrutiny and supervision, and

Whereas, other legislative staff always found her to be an invaluable colleague, a great friend, and a marvelous story teller, and

Whereas, although the rumor has long persisted that Margaret Lucenti would staff the Senate Committee on Judiciary indefinitely, even after Senator Alice Nitka accidentally locked Margaret Lucenti in the Senate Judiciary Committee vault, this superb committee staffer has decided that her 90th

birthday marks the moment to conclude her tenure to spend more time with her wonderful husband, Sal, children, grandchildren, and great grandchildren, and she will be truly missed, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its sincere appreciation to Margaret Lucenti for her dedicated public service, and wishes her all the best, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Margaret Lucenti in Montpelier.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

House Resolution Adopted

H.R. 16

House resolution, entitled

House resolution commemorating the 39th anniversary of Roe v Wade and reaffirming support for its fundamental holding and principles

Offered by: Representatives Pugh of South Burlington, Haas of Rochester, Bartholomew of Hartland, Bohi of Hartford, Botzow of Pownal, Burke of Brattleboro, Buxton of Tunbridge, Campion of Bennington, Cheney of Norwich, Christie of Hartford, Clarkson of Woodstock, Condon of Colchester, Conquest of Newbury, Corcoran of Bennington, Courcelle of Rutland City, Dakin of Chester, Davis of Washington, Deen of Westminster, Donovan of Burlington, Edwards of Brattleboro, Ellis of Waterbury, Emmons of Springfield, Evans of Essex, Fisher of Lincoln, Frank of Underhill, French of Shrewsbury, French of Randolph, Gilbert of Fairfax, Grad of Moretown, Head of South Burlington, Jerman of Essex, Jewett of Ripton, Kitzmiller of Montpelier, Klein of East Montpelier, Kupersmith of South Burlington, Lanpher of Vergennes, Lenes of Shelburne, Leriche of Hardwick, Lippert of Hinesburg, Macaig of Williston, Malcolm of Pawlet, Marek of Newfane, Martin of Springfield, Masland of Thetford, McCullough of Williston, Mook of Bennington, Moran of Wardsboro, Mrowicki of Putney, Nuovo of Middlebury, O'Sullivan of Burlington, Partridge of Windham, Pearson of Burlington, Peltz of Woodbury, Ralston of Middlebury, Ram of Burlington, Russell of Rutland City, Shand of Weathersfield, Stevens of Waterbury, Stuart of Brattleboro, Sweaney of Windsor, Till of Jericho, Trieber of Rockingham, Waite-Simpson of Essex, Webb of Shelburne, Wilson of Manchester, Wizowaty of Burlington, Yantachka of Charlotte and Young of Glover

Whereas, on January 22, 1973, in a landmark decision, the U.S. Supreme Court issued its historic ruling in Roe v Wade, affirming that women, not politicians, should make the most personal decision of when or whether to have children, and

Whereas, the constitutional right to abortion as embodied in Roe v Wade recognizes women's right to exercise reproductive choice, saves women's lives, and strengthens families, and

Whereas, prior to the Roe v Wade decision, thousands of American women died every year as a result of complications from unsafe and illegal abortions, and an untold number of women suffered grievous injuries, a situation that created a serious public health problem that has virtually been eliminated by providing access to safe and legal abortion, and

Whereas, it is a public health goal of the state of Vermont to protect and enhance the health of all Vermonters, including women of all ages, and to strengthen families by encouraging and promoting access to comprehensive family planning services, and

Whereas, violence against providers and restrictions against abortion endanger the lives of women and men, and have continued to erode access to abortion, and

Whereas, safe, legal, and accessible abortion services are still under attack, especially for women for whom English is a second language or who do not speak English at all, poor women, rural women, and women who are minors, and

Whereas, it is critical for the economic health of our country, and the personal health and happiness of American women, that the right of women and their families to make their own personal medical decisions about reproduction and gynecological issues be vigilantly preserved and protected, now therefore be it

Resolved by the House of Representatives:

That this legislative body reaffirms the right of every Vermont woman to privacy, autonomy, and safety in making personal decisions regarding reproduction and family planning, and be it further

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

Pending the question, Shall the House adopt the resolution? **Rep. Ram of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question,

Shall the House adopt the resolution? was decided in the affirmative. Yeas, 105. Nays, 29.

Those who voted in the affirmative are:

Ancel of Calais	Head of South Burlington	Myers of Essex
Aswad of Burlington	Heath of Westford	Nuovo of Middlebury
Atkins of Winooski	Hooper of Montpelier	O'Brien of Richmond
Bartholomew of Hartland	Howard of Cambridge	Olsen of Jamaica
Bohi of Hartford	Jerman of Essex	O'Sullivan of Burlington
Botzow of Pownal	Jewett of Ripton	Partridge of Windham
Browning of Arlington *	Johnson of South Hero	Pearce of Richford
Burke of Brattleboro	Johnson of Canaan	Pearson of Burlington
Buxton of Tunbridge	Keenan of St. Albans City *	Peltz of Woodbury
Campion of Bennington	Kitzmiller of Montpelier	Poirier of Barre City
Cheney of Norwich	Krebs of South Hero	Potter of Clarendon
Christie of Hartford	Kupersmith of South Burlington	Pugh of South Burlington
Clarkson of Woodstock	Lanpher of Vergennes	Ralston of Middlebury
Conquest of Newbury	Larocque of Barnet	Ram of Burlington
Consejo of Sheldon	Lawrence of Lyndon	Russell of Rutland City
Corcoran of Bennington	Lenes of Shelburne	Shand of Weathersfield
Courcelle of Rutland City	Leriche of Hardwick	Sharpe of Bristol
Crawford of Burke	Lewis of Berlin	Spengler of Colchester
Dakin of Chester	Lewis of Derby	Stevens of Waterbury
Davis of Washington	Lippert of Hinesburg	Stevens of Shoreham
Deen of Westminster	Macaig of Williston	Stuart of Brattleboro
Degree of St. Albans City	Malcolm of Pawlet	Sweaney of Windsor
Devereux of Mount Holly	Manwaring of Wilmington	Taylor of Barre City
Donovan of Burlington	Marek of Newfane	Till of Jericho
Edwards of Brattleboro	Martin of Springfield	Toll of Danville
Ellis of Waterbury	Martin of Wolcott	Townsend of Randolph
Emmons of Springfield	Masland of Thetford	Trieber of Rockingham
Evans of Essex	McAllister of Highgate	Waite-Simpson of Essex
Fisher of Lincoln	McCullough of Williston	Wilson of Manchester
Frank of Underhill	McFaun of Barre Town	Wizowaty of Burlington
French of Shrewsbury	Miller of Shaftsbury	Woodward of Johnson
French of Randolph	Mook of Bennington	Yantachka of Charlotte *
Gilbert of Fairfax	Moran of Wardsboro	Young of Glover
Grad of Moretown	Mrowicki of Putney	Zagar of Barnard
Greshin of Warren	Munger of South Burlington	
Haas of Rochester		

Those who voted in the negative are:

Acinapura of Brandon	Clark of Vergennes	Helm of Fair Haven
Batchelor of Derby *	Dickinson of St. Albans Town	Higley of Lowell
Bouchard of Colchester	Donaghy of Poultney	Howrigan of Fairfield
Branagan of Georgia	Donahue of Northfield	Hubert of Milton
Brennan of Colchester	Hebert of Vernon	Kilmartin of Newport City
Burditt of West Rutland		Koch of Barre Town *

Marcotte of Coventry	Reis of St. Johnsbury	Smith of New Haven
McNeil of Rutland Town	Savage of Swanton	Strong of Albany
Peaslee of Guildhall	Scheuermann of Stowe	Turner of Milton
Perley of Enosburgh	Shaw of Pittsford	Winters of Williamstown

Those members absent with leave of the House and not voting are:

Andrews of Rutland City	Eckhardt of Chittenden	South of St. Johnsbury
Bissonnette of Winooski	Fagan of Rutland City	Webb of Shelburne
Canfield of Fair Haven	Klein of East Montpelier	Wright of Burlington
Condon of Colchester	Komline of Dorset	
Copeland-Hanzas of Bradford	Lorber of Burlington	
	Morrissey of Bennington	

Rep. Batchelor of Derby explained her vote as follows:

“Mr. Speaker:

Abortion is not family planning!”

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I vote yes to support this resolution. But I wish to make it clear that while I want abortions to be safe and legal, I would also like them to be very, very rare. I would like us all to work together to ensure that they are very, very rare, through better education through more effective use of contraception and family planning or abstinence.”

Rep. Keenan of St. Albans explained her vote as follows:

“Mr. Speaker:

Being a breast cancer survivor due to early detection, for all my sister and brother survivors and because women’s preventive health services are so important for all of society, I vote yes.”

Rep. Koch of Barre explained his vote as follows:

“Mr. Speaker:

I vote no, not because I don’t support Roe v. Wade – I do – but to protest this annual waste of time.”

Rep. Yantachka of Charlotte explained his vote as follows:

“Mr. Speaker:

While I hope that we can always work toward reducing the number of abortions and the necessity for them, I support this resolution because it

supports the protection of the health and safety of women, which is a basic human right.”

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 157

Rep. Pugh of South Burlington moved that the committee on Human Services be relieved of House bill, entitled

An act relating to restrictions on tanning beds

And that the bill be committed to the committee on Health Care, which was agreed to.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 595

Rep. Till of Jericho moved that the committee on Health Care be relieved of House bill, entitled

An act relating to allowing 16-year-olds to donate blood

And that the bill be committed to the committee on Human Services, which was agreed to.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 565

House bill, entitled

An act relating to regulating licensed lenders and mortgage loan originators;

H. 754

House bill, entitled

An act relating to the education property tax rate and base education amount for fiscal year 2013;

H. 755

House bill, entitled

An act relating to extending the deadline for adoption of certain health department rules;

Adjournment

At ten o'clock and thirty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, February 14, 2012, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 44.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 254

House concurrent resolution congratulating the 2011 Springfield High School Division II championship softball team;

H.C.R. 255

House concurrent resolution urging the restoration of intercity bus service to Rutland City;

H.C.R. 256

House concurrent resolution congratulating Brandon Fire District #1 Superintendent Ray Counter and the Brandon Fire District #1 Prudential Committee on the district's designation as a Class II water system;

H.C.R. 257

House concurrent resolution congratulating Kristen Kelliher on becoming the youngest female to scale the highest points in each of the lower 48 states;

H.C.R. 258

House concurrent resolution recognizing the spirit of Vermont Strong online, in music, and as a commemorative license plate;

H.C.R. 259

House concurrent resolution congratulating the Suicide Six Ski Area in Woodstock on its 75th anniversary;

S.C.R. 34

Senate concurrent resolution in memory of former Representative Alice Cook Bassett;

S.C.R. 35

Senate concurrent resolution in memory of Arthur Rush Hogan Jr. of Burlington;

S.C.R. 36

Senate concurrent resolution in memory of Rutland Regional Planning Commission Executive Director Mark Blucher;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, February 14, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Geof Hewit, poet from Calais, VT.

Pledge of Allegiance

Page Sage Luksevish of Underhill led the House in the Pledge of Allegiance.

New Member Seated

Rep. Krowinski of Burlington, the newly appointed member, having taken and subscribed the oath administered by the Clerk, as required by the Constitution and laws of the State, was conducted to her seat by the Doorkeeper.

Committee Bill Introduced**H. 758**

Rep. Lippert of Hinesburg, for the committee on Judiciary, introduced a bill, entitled

An act relating to divorce and dissolution proceedings

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Bill Referred to Committee on Appropriations**H. 577**

House bill, entitled

An act relating to public water systems

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Action on Bill Postponed**H. 39**

House bill, entitled

An act relating to advance directives for service members

Was taken up and pending the reading of the report of the committee on General, Housing and Military Affairs, on motion of **Rep. Head of South Burlington**, action on the bill was postponed until the next legislative day.

Joint Resolution Adopted in Concurrence**J.R.S. 45**

Joint resolution, entitled

Joint resolution expressing sincere appreciation to Margaret Lucenti for her dedicated public service

Was taken up and adopted in concurrence.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed**

H. 558

The Senate proposed to the House to amend House bill, entitled

An act relating to fiscal year 2012 budget adjustment

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

Sec. 1. Sec. B.100 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.100 Secretary of administration - secretary's office

Personal services	640,938	640,938
Operating expenses	<u>74,914</u>	<u>271,914</u>
Total	715,852	912,852
Source of funds		
General fund	<u>715,852</u>	<u>912,852</u>
Total	715,852	912,852

Sec. 2. Sec. B.102 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.102 Finance and management - budget and management

Personal services	<u>1,080,093</u>	1,126,093
Operating expenses	<u>216,873</u>	<u>216,873</u>
Total	1,296,966	1,342,966

Source of funds

General fund	<u>1,053,132</u>	1,099,132
Interdepartmental transfers	<u>243,834</u>	<u>243,834</u>
Total	<u>1,296,966</u>	1,342,966

Sec. 3. Sec. B.104 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.104 Human resources - operations

Personal services	5,454,543	5,454,543
Operating expenses	<u>720,455</u>	<u>701,837</u>
Total	<u>6,174,998</u>	6,156,380

Source of funds

General fund	<u>1,819,211</u>	1,800,593
Special funds	280,835	280,835
Internal service funds	3,361,536	3,361,536
Interdepartmental transfers	<u>713,416</u>	<u>713,416</u>
Total	<u>6,174,998</u>	6,156,380

Sec. 4. Sec. B.137 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.137 Homeowner rebate

Grants	<u>15,190,000</u>	<u>14,190,000</u>
Total	<u>15,190,000</u>	14,190,000

Source of funds

General fund	<u>15,190,000</u>	<u>14,190,000</u>
Total	<u>15,190,000</u>	14,190,000

Sec. 5. Sec. B.138 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.138 Renter rebate

Grants	<u>8,300,000</u>	<u>8,602,825</u>
Total	<u>8,300,000</u>	8,602,825

Source of funds

General fund	<u>2,500,000</u>	2,802,825
Education fund	<u>5,800,000</u>	<u>5,800,000</u>
Total	<u>8,300,000</u>	8,602,825

Sec. 6. Sec. B.145 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.145 Total general government	<u>196,680,589</u>	196,207,796

Source of funds

General fund	<u>70,286,567</u>	69,813,774
Special funds	10,097,322	10,097,322
Tobacco fund	58,000	58,000

Education fund	9,040,000	9,040,000
Federal funds	878,355	878,355
Internal service funds	59,092,893	59,092,893
Interdepartmental transfers	5,751,979	5,751,979
Enterprise funds	3,000,963	3,000,963
Pension trust funds	37,560,515	37,560,515
Private purpose trust funds	<u>913,995</u>	<u>913,995</u>
Total	~~196,680,589~~	196,207,796

Sec. 7. Sec. B.204 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.204 Judiciary

Personal services	~~29,103,880~~	29,128,880
Operating expenses	~~10,175,038~~	10,300,038
Grants	<u>70,000</u>	<u>70,000</u>
Total	~~39,348,918~~	39,498,918
Source of funds		
General fund	~~31,331,211~~	31,481,211
Special funds	4,175,542	4,175,542
Tobacco fund	39,871	39,871
Federal funds	1,129,259	1,129,259
Interdepartmental transfers	<u>2,673,035</u>	<u>2,673,035</u>
Total	~~39,348,918~~	39,498,918

Sec. 8. Sec. B.205 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.205 State's attorneys

Personal services	~~9,433,100~~	9,440,100
Operating expenses	<u>1,141,004</u>	<u>1,141,004</u>
Total	~~10,574,104~~	10,581,104
Source of funds		
General fund	8,297,085	8,297,085
Special funds	60,699	60,699
Federal funds	31,000	31,000
Interdepartmental transfers	<u>2,185,320</u>	<u>2,192,320</u>
Total	~~10,574,104~~	10,581,104

Sec. 9. Sec. B.209 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.209 Public safety - state police

Personal services	~~44,208,236~~	44,859,810
Operating expenses	7,046,296	7,046,296
Grants	<u>971,590</u>	<u>971,590</u>

Total	52,226,122	52,877,696
Source of funds		
General fund	21,233,922	21,885,496
Transportation fund	25,238,498	25,238,498
Special funds	1,003,612	1,003,612
Federal funds	3,401,866	3,401,866
ARRA funds	296,107	296,107
Interdepartmental transfers	<u>1,052,117</u>	<u>1,052,117</u>
Total	52,226,122	52,877,696

Sec. 10. Sec. B.210 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.210 Public safety - criminal justice services

Personal services	7,267,663	7,567,283
Operating expenses	2,565,979	2,565,979
Grants	<u>5,989,000</u>	<u>5,989,000</u>
Total	~~15,822,642~~	16,122,262
Source of funds		
General fund	6,124,932	6,424,552
Special funds	1,468,701	1,468,701
Federal funds	7,890,543	7,890,543
ARRA funds	<u>338,466</u>	<u>338,466</u>
Total	~~15,822,642~~	16,122,262

Sec. 11. Sec. B.215 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.215 Military - administration

Personal services	468,699	468,699
Operating expenses	~~376,507~~	1,117,764
Grants	<u>100,000</u>	<u>100,000</u>
Total	~~945,206~~	1,686,463
Source of funds		
General fund	~~945,206~~	<u>1,686,463</u>
Total	~~945,206~~	1,686,463

Sec. 12. Sec. B.240 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.240 Total protection to persons and property

	~~294,212,516~~	296,061,967
Source of funds		
General fund	~~105,736,367~~	107,578,818
Transportation fund	25,238,498	25,238,498
Special funds	70,577,645	70,577,645

Tobacco fund	956,816	956,816
Federal funds	58,629,823	58,629,823
ARRA funds	16,822,047	16,822,047
Global Commitment fund	1,989,102	1,989,102
Interdepartmental transfers	<u>9,215,074</u>	9,222,074
Enterprise funds	<u>5,047,144</u>	<u>5,047,144</u>
Total	<u>294,212,516</u>	296,061,967

Sec. 13. Sec. B.300 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	~~8,161,616~~	8,968,705
Operating expenses	~~3,097,481~~	2,821,996
Grants	<u>5,235,805</u>	<u>6,135,805</u>
Total	~~16,494,902~~	17,926,506

Source of funds

General fund	~~4,913,133~~	5,088,304
Special fund	7,517	7,517
Tobacco fund	~~290,330~~	287,997
Federal funds	~~7,752,402~~	9,979,972
Global Commitment fund	415,000	415,000
Interdepartmental transfers	<u>3,116,520</u>	<u>2,147,716</u>
Total	~~16,494,902~~	17,926,506

Sec. 14. Sec. B.301 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.301 Secretary's office - global commitment

Grants	~~1,080,785,264~~	<u>1,084,179,866</u>
Total	~~1,080,785,264~~	1,084,179,866

Source of funds

General fund	~~139,267,121~~	125,548,225
Special funds	~~18,630,961~~	19,052,361
Tobacco fund	36,978,473	36,978,473
State health care resources fund	~~221,579,040~~	234,205,524
Catamount fund	~~23,948,700~~	25,226,979
Federal funds	~~639,692,834~~	642,480,169
Interdepartmental transfers	<u>688,135</u>	<u>688,135</u>
Total	~~1,080,785,264~~	1,084,179,866

Sec. 15. Sec. B.302 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.302 Rate setting

Personal services	~~852,330~~	820,620

Operating expenses	<u>80,608</u>	<u>53,686</u>
Total	<u>932,938</u>	<u>874,306</u>
Source of funds		
Global Commitment fund	<u>932,938</u>	<u>874,306</u>
Total	<u>932,938</u>	<u>874,306</u>

Sec. 16. Sec. B.306 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.306 Department of Vermont health access - administration

Personal services	<u>85,804,852</u>	<u>86,056,056</u>
Operating expenses	<u>2,761,571</u>	<u>(1,759,604)</u>
Grants	<u>7,625,573</u>	<u>7,604,073</u>
Total	<u>96,191,996</u>	<u>91,900,525</u>
Source of funds		
General fund	<u>945,014</u>	<u>489,014</u>
Special funds	<u>1,579,123</u>	<u>1,579,123</u>
Federal funds	<u>43,169,600</u>	<u>39,064,279</u>
ARRA funds	<u>2,505,044</u>	<u>2,505,044</u>
Global Commitment fund	<u>43,916,098</u>	<u>44,185,948</u>
Interdepartmental transfers	<u>4,077,117</u>	<u>4,077,117</u>
Total	<u>96,191,996</u>	<u>91,900,525</u>

Sec. 17. Sec. B.307 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	<u>640,777,596</u>	<u>638,970,335</u>
Total	<u>640,777,596</u>	<u>638,970,335</u>
Source of funds		
Global Commitment fund	<u>640,777,596</u>	<u>638,970,335</u>
Total	<u>640,777,596</u>	<u>638,970,335</u>

Sec. 18. Sec. B.308 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.308 Department of Vermont health access - Medicaid program - long term care waiver

Grants	<u>205,491,171</u>	<u>202,453,817</u>
Total	<u>205,491,171</u>	<u>202,453,817</u>
Source of funds		
General fund	<u>86,593,979</u>	<u>83,843,969</u>
Federal funds	<u>118,897,192</u>	<u>118,609,848</u>
Total	<u>205,491,171</u>	<u>202,453,817</u>

Sec. 19. Sec. B.309 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	<u>26,979,994</u>	<u>26,616,777</u>
Total	<u>26,979,994</u>	<u>26,616,777</u>
Source of funds		
General fund	25,896,529	25,466,728
Global Commitment fund	<u>1,083,465</u>	<u>1,150,049</u>
Total	<u>26,979,994</u>	<u>26,616,777</u>

Sec. 20. Sec. B.310 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.310 Department of Vermont health access - Medicaid non-waiver matched

Grants	<u>42,553,092</u>	<u>43,863,618</u>
Total	<u>42,553,092</u>	<u>43,863,618</u>
Source of funds		
General fund	<u>17,931,272</u>	17,837,604
Federal funds	<u>24,621,820</u>	<u>26,026,014</u>
Total	<u>42,553,092</u>	<u>43,863,618</u>

Sec. 21. Sec. B.311 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.311 Health - administration and support

Personal services	5,485,409	5,319,736
Operating expenses	1,932,004	1,932,004
Grants	<u>2,781,190</u>	<u>3,181,190</u>
Total	<u>10,198,603</u>	<u>10,432,930</u>
Source of funds		
General fund	<u>1,059,487</u>	1,043,859
Special funds	<u>324,063</u>	674,063
Federal funds	5,152,054	5,070,009
ARRA funds	81,815	81,815
Global Commitment fund	<u>3,581,184</u>	<u>3,563,184</u>
Total	<u>10,198,603</u>	<u>10,432,930</u>

Sec. 22. Sec. B.312 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.312 Health - public health

Personal services	<u>33,496,002</u>	33,353,719
Operating expenses	7,145,652	7,145,126
Grants	<u>33,438,566</u>	<u>32,976,653</u>
Total	<u>74,080,220</u>	<u>73,475,498</u>
Source of funds		

General fund	7,262,449	7,262,449
Special funds	~~11,012,411~~	10,974,251
Tobacco fund	1,594,000	1,594,000
Federal funds	~~32,903,499~~	32,800,052
ARRA funds	460,165	460,165
Global Commitment fund	~~19,862,288~~	19,399,173
Interdepartmental transfers	975,408	975,408
Dedicated Trust funds	<u>10,000</u>	<u>10,000</u>
Total	~~74,080,220~~	73,475,498

Sec. 23. Sec. B.313 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.313 Health - alcohol and drug abuse programs

Personal services	~~2,650,944~~	2,636,691
Operating expenses	371,158	371,158
Grants	~~25,881,381~~	<u>26,293,294</u>
Total	~~28,903,483~~	29,301,143

Source of funds

General fund	3,211,543	3,211,543
Special funds	233,884	233,884
Tobacco fund	1,386,234	1,386,234
Federal funds	~~5,955,677~~	5,952,064
Global Commitment fund	~~17,766,145~~	18,167,418
Interdepartmental transfers	<u>350,000</u>	<u>350,000</u>
Total	~~28,903,483~~	29,301,143

Sec. 24. Sec. B.314 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.314 Mental health - mental health

Personal services	~~5,486,339~~	5,482,633
Operating expenses	~~1,117,984~~	1,040,984
Grants	~~124,369,250~~	<u>128,344,044</u>
Total	~~130,973,573~~	134,867,661

Source of funds

General fund	811,295	811,295
Special funds	6,836	6,836
Federal funds	~~6,555,971~~	6,552,154
Global Commitment fund	~~123,579,471~~	127,477,376
Interdepartmental transfers	<u>20,000</u>	<u>20,000</u>
Total	~~130,973,573~~	134,867,661

Sec. 25. Sec. B.315 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.315 Mental health - Vermont state hospital

Personal services	20,479,188	20,479,188
Operating expenses	<u>2,056,312</u>	1,394,734
Grants	<u>82,335</u>	<u>82,335</u>
Total	<u>22,617,835</u>	21,956,257
Source of funds		
General fund	<u>17,016,067</u>	16,513,585
Special funds	<u>835,486</u>	810,816
Federal funds	213,564	213,564
Global Commitment fund	<u>4,252,718</u>	4,127,151
Interdepartmental transfers	<u>300,000</u>	<u>291,141</u>
Total	<u>22,617,835</u>	21,956,257

Sec. 26. Sec. B.316 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.316 Department for children and families - administration & support services

Personal services	~~38,009,556~~	37,135,535
Operating expenses	~~7,835,052~~	7,031,515
Grants	<u>1,206,996</u>	<u>1,206,996</u>
Total	~~47,051,604~~	45,374,046
Source of funds		
General fund	~~16,383,046~~	15,544,761
Federal funds	~~14,330,642~~	13,921,484
Global Commitment fund	~~16,125,416~~	15,695,301
Interdepartmental transfers	<u>212,500</u>	<u>212,500</u>
Total	~~47,051,604~~	45,374,046

Sec. 27. Sec. B.317 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.317 Department for children and families - family services

Personal services	~~23,318,476~~	23,348,827
Operating expenses	~~3,408,618~~	3,303,950
Grants	<u>60,116,513</u>	<u>60,615,513</u>
Total	~~86,843,607~~	87,268,290
Source of funds		
General fund	~~20,908,063~~	20,693,747
Special funds	1,691,637	1,691,637
Tobacco fund	275,000	275,000
Federal funds	~~27,652,387~~	27,535,431
Global Commitment fund	~~36,216,520~~	36,972,475
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	~~86,843,607~~	87,268,290

Sec. 28. Sec. B.318 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.318 Department for children and families - child development

Personal services	3,165,567	3,223,028
Operating expenses	520,809	416,597
Grants	<u>58,804,943</u>	<u>59,042,563</u>
Total	<u>62,491,319</u>	62,682,188
Source of funds		
General fund	23,492,835	25,315,367
Special funds	1,820,000	1,820,000
Federal funds	<u>29,131,536</u>	27,994,379
Global Commitment fund	7,907,441	7,412,935
Interdepartmental transfers	<u>139,507</u>	<u>139,507</u>
Total	<u>62,491,319</u>	62,682,188

Sec. 29. Sec. B.319 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.319 Department for children and families - office of child support

Personal services	8,739,557	8,694,044
Operating expenses	<u>4,162,561</u>	<u>4,035,932</u>
Total	<u>12,902,118</u>	12,729,976
Source of funds		
General fund	2,638,576	3,009,614
Special funds	455,718	455,718
Federal funds	<u>9,420,224</u>	8,877,044
Interdepartmental transfers	<u>387,600</u>	<u>387,600</u>
Total	<u>12,902,118</u>	12,729,976

Sec. 30. Sec. B.320 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.320 Department for children and families - aid to aged, blind and disabled

Personal services	1,827,113	1,827,113
Grants	<u>11,044,541</u>	<u>11,255,394</u>
Total	<u>12,871,654</u>	13,082,507
Source of funds		
General fund	9,121,654	9,332,507
Global Commitment fund	<u>3,750,000</u>	<u>3,750,000</u>
Total	<u>12,871,654</u>	13,082,507

Sec. 31. Sec. B.321 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.321 Department for children and families - general assistance

Grants	<u>6,500,000</u>	<u>8,074,091</u>
Total	6,500,000	8,074,091
Source of funds		
General fund	<u>5,048,680</u>	6,187,719
Federal funds	1,111,320	1,111,320
Global Commitment fund	<u>340,000</u>	<u>775,052</u>
Total	6,500,000	8,074,091

Sec. 32. Sec. B.322 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.322 Department for children and families - 3SquaresVT

Grants	<u>23,756,778</u>	<u>24,860,290</u>
Total	23,756,778	24,860,290
Source of funds		
Federal funds	<u>23,756,778</u>	<u>24,860,290</u>
Total	23,756,778	24,860,290

Sec. 33. Sec. B.323 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.323 Department for children and families - reach up

Grants	<u>49,155,572</u>	<u>48,919,251</u>
Total	49,155,572	48,919,251
Source of funds		
General fund	<u>19,481,509</u>	19,120,188
Special funds	<u>19,916,856</u>	20,041,856
Federal funds	7,882,807	7,882,807
Global Commitment fund	<u>1,874,400</u>	<u>1,874,400</u>
Total	49,155,572	48,919,251

Sec. 34. Sec. B.324 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP

Personal services	20,000	20,000
Operating expenses	90,000	90,000
Grants	<u>11,502,664</u>	<u>11,547,664</u>
Total	11,612,664	11,657,664
Source of funds		
Federal funds	<u>11,612,664</u>	<u>11,657,664</u>
Total	11,612,664	11,657,664

Sec. 35. Sec. B.325 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.325 Department for children and families - office of economic

opportunity

Personal services	262,256	260,866
Operating expenses	80,518	70,468
Grants	<u>4,759,371</u>	<u>4,866,237</u>
Total	5,102,145	5,197,571
Source of funds		
General fund	1,251,040	1,251,040
Special funds	57,990	57,990
Federal funds	3,793,115	3,736,675
<u>Global Commitment fund</u>		<u>151,866</u>
Total	5,102,145	5,197,571

Sec. 36. Sec. B.327 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.327 Department for children and families - Woodside rehabilitation center

Personal services	~~3,691,894~~	3,476,048
Operating expenses	<u>590,115</u>	<u>590,115</u>
Total	4,282,009	4,066,163
Source of funds		
General fund	~~964,774~~	764,774
Global Commitment fund	~~3,262,343~~	3,246,497
Interdepartmental transfers	<u>54,892</u>	<u>54,892</u>
Total	4,282,009	4,066,163

Sec. 37. Sec. B.328 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.328 Department for children and families - disability determination services

Personal services	4,513,664	4,492,057
Operating expenses	<u>1,142,442</u>	<u>1,142,442</u>
Total	5,656,106	5,634,499
Source of funds		
Federal funds	~~5,409,589~~	5,387,982
Global Commitment fund	<u>246,517</u>	<u>246,517</u>
Total	5,656,106	5,634,499

Sec. 38. Sec. B.329 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.329 Disabilities, aging, and independent living - administration & support

Personal services	~~24,093,021~~	23,955,363
Operating expenses	<u>3,838,249</u>	<u>3,494,338</u>

Total	27,931,270	27,449,701
Source of funds		
General fund	7,126,532	7,054,548
Special funds	889,246	889,246
Federal funds	11,194,950	11,039,048
Global Commitment fund	6,230,760	5,996,588
Interdepartmental transfers	<u>2,489,782</u>	<u>2,470,271</u>
Total	27,931,270	27,449,701

Sec. 39. Sec. B.330 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	<u>20,538,891</u>	<u>21,151,422</u>
Total	<u>20,538,891</u>	21,151,422
Source of funds		
General fund	8,782,473	8,456,650
Federal funds	7,645,317	7,645,317
Global Commitment fund	<u>3,473,601</u>	4,411,955
Interdepartmental transfers	<u>637,500</u>	<u>637,500</u>
Total	<u>20,538,891</u>	21,151,422

Sec. 40. Sec. B.333 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.333 Disabilities, aging, and independent living - developmental services

Grants	<u>152,288,227</u>	<u>151,538,227</u>
Total	<u>152,288,227</u>	151,538,227
Source of funds		
General fund	155,125	155,125
Special funds	15,463	15,463
Federal funds	359,857	359,857
Global Commitment fund	<u>151,757,782</u>	<u>151,007,782</u>
Total	<u>152,288,227</u>	151,538,227

Sec. 41. Sec. B.335 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.335 Corrections - administration

Personal services	<u>1,959,290</u>	1,877,803
Operating expenses	<u>194,525</u>	<u>194,525</u>
Total	<u>2,153,815</u>	2,072,328
Source of funds		
General fund	<u>2,153,815</u>	<u>2,072,328</u>
Total	<u>2,153,815</u>	2,072,328

Sec. 42. Sec. B.336 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.336 Corrections - parole board

Personal services	262,434	262,434
Operating expenses	<u>60,198</u>	<u>48,895</u>
Total	~~322,632~~	311,329
Source of funds		
General fund	<u>322,632</u>	<u>311,329</u>
Total	~~322,632~~	311,329

Sec. 43. Sec. B.337 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.337 Corrections - correctional education

Personal services	4,391,210	4,391,210
Operating expenses	<u>306,274</u>	<u>292,833</u>
Total	~~4,697,484~~	4,684,043
Source of funds		
Education fund	~~4,321,425~~	4,307,984
Interdepartmental transfers	<u>376,059</u>	<u>376,059</u>
Total	~~4,697,484~~	4,684,043

Sec. 44. Sec. B.338 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.338 Corrections - correctional services

Personal services	~~81,867,751~~	82,441,706
Operating expenses	~~34,909,316~~	33,838,300
Grants	<u>6,076,953</u>	<u>6,183,953</u>
Total	~~122,854,020~~	122,463,959
Source of funds		
General fund	~~118,621,136~~	117,444,094
Special funds	483,963	483,963
Tobacco fund	87,500	87,500
Federal funds	170,962	170,962
Global Commitment fund	<u>3,094,144</u>	3,881,125
Interdepartmental transfers	<u>396,315</u>	<u>396,315</u>
Total	~~122,854,020~~	122,463,959

Sec. 45. Sec. B.339 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.339 Correctional services-out of state beds

Personal services	<u>8,249,395</u>	<u>11,434,060</u>
Total	~~8,249,395~~	11,434,060
Source of funds		

General fund	<u>8,249,395</u>	<u>11,434,060</u>
Total	<u>8,249,395</u>	<u>11,434,060</u>

Sec. 46. Sec. B.345 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.345 Total human services	<u>3,095,921,720</u>	<u>3,099,150,587</u>

Source of funds

General fund	<u>552,053,592</u>	<u>537,708,844</u>
Special funds	<u>76,643,259</u>	<u>77,476,829</u>
Tobacco fund	<u>40,611,537</u>	<u>40,609,204</u>
State health care resources fund	<u>221,579,040</u>	<u>234,205,524</u>
Catamount fund	<u>23,948,700</u>	<u>25,226,979</u>
Education fund	<u>4,321,425</u>	<u>4,307,984</u>
Federal funds	<u>1,052,142,881</u>	<u>1,052,684,505</u>
ARRA funds	<u>6,592,649</u>	<u>6,592,649</u>
Global Commitment fund	<u>1,096,854,182</u>	<u>1,100,160,788</u>
Internal service funds	<u>1,463,890</u>	<u>1,463,890</u>
Interdepartmental transfers	<u>19,700,565</u>	<u>18,703,391</u>
Permanent trust funds	<u>10,000</u>	<u>10,000</u>
Total	<u>3,095,921,720</u>	<u>3,099,150,587</u>

Sec. 47. Sec. B.400 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.400 Labor

Personal services	<u>24,811,666</u>	<u>24,811,666</u>
Operating expenses	<u>5,662,677</u>	<u>5,662,677</u>
Grants	<u>975,000</u>	<u>1,025,000</u>
Total	<u>31,449,343</u>	<u>31,499,343</u>

Source of funds

General fund	<u>2,400,316</u>	<u>2,852,309</u>
Special funds	<u>3,765,862</u>	<u>3,363,869</u>
Federal funds	<u>23,888,739</u>	<u>23,888,739</u>
Interdepartmental transfers	<u>1,394,426</u>	<u>1,394,426</u>
Total	<u>31,449,343</u>	<u>31,499,343</u>

Sec. 48. Sec. B.402 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.402 Total labor	<u>31,449,343</u>	<u>31,499,343</u>

Source of funds

General fund	<u>2,400,316</u>	<u>2,852,309</u>
Special funds	<u>3,765,862</u>	<u>3,363,869</u>
Federal funds	<u>23,888,739</u>	<u>23,888,739</u>
Interdepartmental transfers	<u>1,394,426</u>	<u>1,394,426</u>
Total	<u>31,449,343</u>	<u>31,499,343</u>

Sec. 49. Sec. B.700 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.700 Natural resources - agency of natural resources - administration

Personal services	2,739,259	2,739,259
Operating expenses	~~1,141,374~~	1,001,265
Grants	<u>45,510</u>	<u>45,510</u>
Total	~~3,926,143~~	3,786,034
Source of funds		
General fund	~~3,720,213~~	3,580,104
Special funds	54,484	54,484
Federal funds	25,000	25,000
Interdepartmental transfers	<u>126,446</u>	<u>126,446</u>
Total	~~3,926,143~~	3,786,034

Sec. 50. Sec. B.702 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.702 Fish and wildlife - support and field services

Personal services	12,718,176	12,718,176
Operating expenses	~~5,253,194~~	5,341,327
Grants	<u>904,333</u>	<u>904,333</u>
Total	~~18,875,703~~	18,963,836
Source of funds		
General fund	~~983,713~~	2,126,546
Special funds	20,000	20,000
Fish and wildlife fund	~~17,531,844~~	16,477,144
Interdepartmental transfers	<u>340,146</u>	<u>340,146</u>
Total	~~18,875,703~~	18,963,836

Sec. 51. Sec. B.703 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.703 Forests, parks and recreation - administration

Personal services	980,517	980,517
Operating expenses	~~649,734~~	561,276
Grants	<u>1,815,492</u>	<u>1,815,492</u>
Total	~~3,445,743~~	3,357,285
Source of funds		
General fund	~~1,174,865~~	1,086,407
Special funds	1,307,878	1,307,878
Federal funds	<u>963,000</u>	<u>963,000</u>
Total	~~3,445,743~~	3,357,285

Sec. 52. Sec. B.704 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.704 Forests, parks and recreation - forestry

Personal services	~~4,377,380~~	4,409,933
Operating expenses	495,362	495,362
Grants	<u>501,000</u>	<u>501,000</u>
Total	~~5,373,742~~	5,406,295
Source of funds		
General fund	~~3,008,767~~	3,041,320
Special funds	975,069	975,069
Federal funds	1,259,906	1,259,906
Interdepartmental transfers	<u>130,000</u>	<u>130,000</u>
Total	~~5,373,742~~	5,406,295

Sec. 53. Sec. B.709 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.709 Environmental conservation - management and support services

Personal services	3,958,930	3,958,930
Operating expenses	~~994,994~~	767,787
Grants	<u>109,800</u>	<u>109,800</u>
Total	~~5,063,724~~	4,836,517
Source of funds		
General fund	~~1,217,592~~	1,157,911
Special funds	~~1,695,813~~	1,654,500
Federal funds	~~1,400,917~~	1,359,810
ARRA funds	230,000	230,000
Interdepartmental transfers	<u>519,402</u>	<u>434,296</u>
Total	~~5,063,724~~	4,836,517

Sec. 54. Sec. B.710 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.710 Environmental conservation - air and waste management

Personal services	9,579,425	9,579,425
Operating expenses	~~6,851,818~~	8,428,405
Grants	<u>2,184,487</u>	<u>2,184,487</u>
Total	~~18,615,730~~	20,192,317
Source of funds		
General fund	~~413,960~~	396,908
Special funds	~~13,739,808~~	15,405,916
Federal funds	~~3,778,578~~	3,710,067
ARRA funds	378,384	378,384
Interdepartmental transfers	<u>305,000</u>	<u>301,042</u>
Total	~~18,615,730~~	20,192,317

Sec. 55. Sec. B.711 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.711 Environmental conservation - office of water programs

Personal services	13,597,174	13,597,174
Operating expenses	<u>2,208,956</u>	1,848,341
Grants	<u>2,672,351</u>	<u>2,672,351</u>
Total	~~18,478,481~~	18,117,866
Source of funds		
General fund	<u>5,620,885</u>	5,484,472
Special funds	<u>4,915,687</u>	4,820,133
Federal funds	<u>7,224,982</u>	7,106,230
ARRA funds	90,302	90,302
Interdepartmental transfers	<u>626,625</u>	<u>616,729</u>
Total	~~18,478,481~~	18,117,866

Sec. 56. Sec. B.714 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.714 Total natural resources	~~88,854,316~~	89,735,200
Source of funds		
General fund	~~19,453,909~~	20,187,582
Special funds	~~32,609,375~~	34,138,616
Fish and wildlife fund	~~17,531,844~~	16,477,144
Federal funds	~~15,796,383~~	15,568,013
ARRA funds	698,686	698,686
Interdepartmental transfers	<u>2,764,119</u>	<u>2,665,159</u>
Total	~~88,854,316~~	89,735,200

Sec. 57. Sec. B.801 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.801 Economic, housing, and community development		
Personal services	7,892,289	7,892,289
Operating expenses	1,294,316	1,294,316
Grants	<u>12,127,703</u>	<u>12,242,903</u>
Total	~~21,314,308~~	21,429,508
Source of funds		
General fund	<u>5,875,933</u>	5,991,133
Special funds	3,948,699	3,948,699
Federal funds	11,337,260	11,337,260
ARRA funds	52,416	52,416
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	~~21,314,308~~	21,429,508

Sec. 58. Sec. B.805 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.805 Tourism and marketing		
Personal services	~~1,313,796~~	1,334,096

Operating expenses	~~1,613,714~~	1,659,414
Grants	<u>143,500</u>	<u>143,500</u>
Total	~~3,071,010~~	3,137,010
Source of funds		
General fund	~~3,021,010~~	3,087,010
Interdepartmental transfers	<u>50,000</u>	<u>50,000</u>
Total	~~3,071,010~~	3,137,010

Sec. 59. Sec. B.812 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.812 Total commerce and community development	~~60,652,486~~	60,833,686
Source of funds		
General fund	~~13,189,010~~	13,370,210
Special funds	13,118,165	13,118,165
Federal funds	32,424,206	32,424,206
ARRA funds	1,002,416	1,002,416
Interdepartmental transfers	206,000	206,000
Enterprise funds	<u>712,689</u>	<u>712,689</u>
Total	~~60,652,486~~	60,833,686

Sec. 60. Sec. B.901 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.901 Transportation - aviation		
Personal services	2,578,742	2,578,742
Operating expenses	~~5,005,242~~	3,755,242
Grants	<u>160,000</u>	<u>160,000</u>
Total	~~7,743,984~~	6,493,984
Source of funds		
Transportation fund	~~3,396,984~~	3,271,984
Federal funds	<u>4,347,000</u>	<u>3,222,000</u>
Total	~~7,743,984~~	6,493,984

Sec. 61. Sec. B.903 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.903 Transportation - program development		
Personal services	36,255,937	36,255,937
Operating expenses	~~199,450,849~~	198,466,149
Grants	<u>30,093,679</u>	<u>30,093,679</u>
Total	~~265,800,465~~	264,815,765
Source of funds		
Transportation fund	~~29,381,520~~	28,381,520
TIB fund	~~13,516,260~~	15,331,560

Federal funds	~~210,051,644~~	208,251,644
ARRA funds	5,328,993	5,328,993
Interdepartmental transfers	4,993,195	4,993,195
Local match	<u>2,528,853</u>	<u>2,528,853</u>
Total	~~265,800,465~~	264,815,765

Sec. 62. Sec. B.905 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.905 Transportation - maintenance state system

Personal services	35,559,722	35,559,722
Operating expenses	~~31,657,070~~	33,682,070
Grants	<u>50,000</u>	<u>50,000</u>
Total	~~67,266,792~~	69,291,792

Source of funds

Transportation fund	~~65,611,298~~	67,636,298
Federal funds	1,555,494	1,555,494
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	~~67,266,792~~	69,291,792

Sec. 63. Sec. B.910 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.910 Department of motor vehicles

Personal services	~~16,488,866~~	15,188,866
Operating expenses	8,873,827	8,873,827
Grants	<u>50,000</u>	<u>50,000</u>
Total	~~25,412,693~~	24,112,693

Source of funds

Transportation fund	~~22,643,786~~	21,343,786
Federal funds	<u>2,768,907</u>	<u>2,768,907</u>
Total	~~25,412,693~~	24,112,693

Sec. 64. Sec. B.917 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.917 Transportation - town highway emergency fund

Grants	<u>750,000</u>	<u>850,000</u>
Total	<u>750,000</u>	850,000

Source of funds

Transportation fund	<u>750,000</u>	<u>850,000</u>
Total	<u>750,000</u>	850,000

Sec. 65. Sec. B.921 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.921 Total transportation	~~553,635,290~~	552,225,590

Source of funds

Transportation fund	<u>191,665,076</u>	191,365,076
TIB fund	<u>19,009,937</u>	20,825,237
Federal funds	<u>276,191,518</u>	273,266,518
ARRA funds	40,582,716	40,582,716
Internal service funds	17,286,915	17,286,915
Interdepartmental transfers	5,434,076	5,434,076
Local match	<u>3,465,052</u>	<u>3,465,052</u>
Total	<u>553,635,290</u>	552,225,590

Sec. 66. Sec. B.1104 of No. 63 of the Acts of 2011 is added to read:

Sec. B.1104 REPAY IRENE EMERGENCY BOARD TRANSFER

(a) The following is appropriated in fiscal year 2012 to the department of corrections - correctional services to reestablish spending authority transferred to the Emergency Relief and Assistance Fund (ERAF) for FEMA match and for the VEDA Tropical Storm Irene loan program authorized by the emergency board on September 13, 2011:

<u>General fund</u>	<u>\$5,800,000</u>

Sec. 67. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2012:

(1) The following amounts shall be transferred to the general fund from the funds indicated:

<u>21110 Employee Leasing Companies</u>	<u>33,020.85</u>
<u>21405 Fidelity interest earnings</u>	<u>approx. 31,000.00</u>
<u>21886 Treas-Refunding Bond Issue</u>	<u>36,425.69</u>
<u>21991 Clean Energy Development Fund</u>	<u>1,298,422.00</u>
<u>22005 AHS Central Office earned federal receipts</u>	<u>13,087,120.00</u>
<u>50300 Liquor Control</u>	<u>840,066.00</u>
<u>62100 Unclaimed Property</u>	<u>2,486,162.00</u>
<u>63101 AOT Escrow-Milton</u>	<u>15,009.52</u>
<u>21270 State Forests Parks Fund</u>	<u>212,000.00</u>
<u>21550 Land and Facilities Trust Fund</u>	<u>161,000.00</u>
<u>Caledonia Fair</u>	<u>5,000.00</u>
<u>North Country Hospital Loan</u>	<u>24,250.00</u>

(2) All or a portion of the unencumbered balances in the insurance

regulatory and supervision fund (Fund Number 21075), the captive insurance regulatory and supervision fund (Fund Number 21085), and the securities regulatory and supervision fund (Fund Number 21080), expected to be approximately \$6,578,178, shall be transferred to the general fund, provided that on or before July 1, 2012, the commissioner of banking, insurance, securities, and health care administration certifies to the joint fiscal committee that the transfer of such balances, or any smaller portion deemed proper by the commissioner, will not impair the ability of the department in fiscal year 2013 to provide thorough, competent, fair, and effective regulatory services, or maintain accreditation by the National Association of Insurance Commissioners; and that the joint fiscal committee does not reject such certification.

(3) The following amounts shall be transferred from the general fund to the funds indicated:

<u>21555 Emergency Relief and Assistance Fund (ERAF)</u>	<u>16,000,000.00</u>
<u>21911 Sarcoidosis Benefit Trust Fund</u>	<u>627,240.00</u>
<u>21260 Act 250 Permit Fund</u>	<u>1,139,849.00</u>
<u>21884 Emergency Personnel Survivors Benefit Special Fund</u>	<u>100,000.00</u>
<u>21255 Petroleum Cleanup Fund</u>	<u>1,700,000.00</u>
<u>50700 Federal Surplus Property</u>	<u>250,000.00</u>
<u>56200 State Insurance Liability Fund</u>	<u>3,000,000.00</u>
<u>58800 Facilities Operations Fund</u>	<u>2,974,383.00</u>

Sec. 67a. Sec. D.101 of No. 63 of the Acts of 2011 is amended to read:

Sec. D.101 FUND TRANSFERS AND RESERVES

(a) Notwithstanding any other provision of law, the following amounts are transferred from the funds indicated:

* * *

(4) from the transportation infrastructure bond fund established by 19 V.S.A. § 11f to the transportation infrastructure bonds debt service fund for the purpose of funding fiscal year 2013 transportation infrastructure bond debt service: ~~\$990,063~~ \$1,758,486.

* * *

Sec. 68. REVERSIONS

(a) Notwithstanding any other provisions of law, in fiscal year 2012:

(1) The following amounts shall revert to the general fund from the accounts indicated:

<u>1110891109 Governor's Transition</u>	<u>11,180.04</u>
<u>1130030000 Department of Libraries</u>	<u>27,000.21</u>
<u>1140070000 Use Tax Reimbursement Program</u>	<u>136,890.60</u>
<u>1210891002 2009 NE Council of State Gov't</u>	<u>40,439.86</u>
<u>1240891101 Transition Expenses</u>	<u>425.00</u>
<u>1250010000 Auditor of Accounts</u>	<u>3,369.26</u>
<u>1260010000 Office of the Treasurer</u>	<u>230,728.00</u>
<u>2100002000 Court Diversion</u>	<u>798.66</u>
<u>2140890901 Rental Housing Safety Study</u>	<u>22,532.04</u>
<u>2170010000 Criminal Justice Training Council</u>	<u>82,861.24</u>
<u>2230891102 2010 Elections</u>	<u>120,053.66</u>
<u>4100500000 VT Department of Labor</u>	<u>26,317.00</u>

(2) The following amounts shall revert to the education fund from the accounts indicated:

<u>1140060000 Grand List Assistance</u>	<u>5,249.65</u>
<u>5100040000 Special Education Formula</u>	<u>990,600.00</u>
<u>5100050000 State-Placed Students</u>	<u>1,022,937.27</u>
<u>5100070000 Education Services</u>	<u>24,751.37</u>
<u>5100110000 Small School Grant</u>	<u>1,989.00</u>
<u>5100120000 Debt Service Aid</u>	<u>29,652.00</u>
<u>5100190000 Essential Early Educ Grant</u>	<u>153,242.07</u>
<u>5100200000 Education-Technical Education</u>	<u>165,496.50</u>

Sec. 69. CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, general, transportation, transportation infrastructure bond, and education fund appropriations remaining unexpended on June 30, 2012 in the executive branch of state government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, general fund

appropriations remaining unexpended on June 30, 2012 in the legislative and judicial branches of state government shall be carried forward and shall be designated for expenditure.

(c) Funds appropriated to contract for database maintenance for the Sex Offender Consortium, funded in Sec. B.210 of No. 63 of the Acts of 2011, that are not fully spent in fiscal year 2012 shall carry forward into fiscal year 2013 for expenditure.

Sec. 70. GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

(a) In order to facilitate the end-of-year closeout for fiscal year 2012, the secretary of human services, with approval from the secretary of administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside the agency of human services. At least three business days prior to any transfer, the agency shall submit to the joint fiscal office a proposal of transfers to be made pursuant to this section. A final report on all transfers made under this section shall be made to the joint fiscal committee for review at the September 2012 meeting. The purpose of this section is to provide the agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. 71. STATE LIABILITY INSURANCE FUND; AUTHORITY TO TRANSFER FUNDS

(a) Notwithstanding any other provisions of law, in fiscal year 2012, the commissioner of finance and management is authorized to transfer from available funds up to \$1,000,000 to the state liability insurance fund for state costs that are the result of concluded or ongoing legal expenses.

Sec. 72. HUMAN SERVICES CASELOAD RESERVE EXPENDITURES

(a) In fiscal year 2012, expenditures pursuant to appropriations from the human services caseload reserve shall be notwithstanding 32 V.S.A. § 308b(a).

Sec. 72a. Sec. D.101(b) of No. 63 of the Acts of 2011 is amended to read:

(b) The amount of ~~\$29,500,000~~ \$38,953,264 is unreserved and made available for expenditure in fiscal year 2012 from the human services caseload reserve created by 32 V.S.A. § 308b.

Sec. 73. FISCAL YEAR 2012 GENERAL FUND REVENUE ESTIMATE AND GENERAL FUND BALANCE

(a) Any increase in the January 2012 emergency board fiscal year 2012 general fund revenue estimate above the July 21, 2011 estimate shall be reserved in the human services caseload reserve, and any decrease in the estimate shall be unreserved from the human services caseload reserve established in 32 V.S.A. § 308b.

(b) At the end of fiscal year 2012, notwithstanding subsection (a) of this section and notwithstanding 32 V.S.A. §§ 308c and 308d, after the general fund budget stabilization reserve attains its statutory maximum, any additional unreserved and undesignated general fund balance shall be deposited into the human services caseload reserve established in 32 V.S.A. § 308b to be used for caseload costs, offsets to federal funding changes, or related human service expenditures in fiscal year 2013.

Sec. 74. TRANSPORTATION; SUPPLEMENTAL PAVING SPENDING AND MAINTENANCE OF EFFORT

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the fiscal year 2012 transportation programs, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may transfer transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, to the paving program in program development (8100001100), for the specific purpose of satisfying the federal maintenance of effort determination required by 23 U.S.C. § 120(j)(2) and improving the condition of selected state highways that have incurred damage caused by winter weather of 2011–2012.

(b) If a contemplated transfer of an appropriation would, by itself, have the effect of significantly delaying the planned work schedule of a project which formed the basis of the project's funding in the fiscal year of the contemplated transfer, the secretary of transportation shall submit the proposed transfer for approval by the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, by the joint transportation oversight committee. In all other cases, the secretary of transportation may execute the transfer, giving prompt notice of the transfer to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

(c) This section shall expire on June 30, 2012.

Sec. 75. TRANSPORTATION; SUPPLEMENTAL TROPICAL STORM IRENE SPENDING

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the fiscal year 2012 transportation programs, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may transfer up to \$4,000,000 in transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, to the program development (8100001100) or to maintenance state system (8100002000) appropriations for the specific purpose of paying for costs associated with Tropical Storm Irene.

(b) If a contemplated transfer of an appropriation would, by itself, have the effect of significantly delaying the planned work schedule of a project which formed the basis of the project's funding in the fiscal year of the contemplated transfer, the secretary of transportation shall submit the proposed transfer for approval by the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, by the joint transportation oversight committee. In all other cases, the secretary of transportation may execute the transfer, giving prompt notice of the transfer to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

(c) This section shall expire on June 30, 2012.

Sec. 76. DEPARTMENT OF MOTOR VEHICLES; CERTIFICATES OF TITLE

(a) Notwithstanding the fee requirement of 23 V.S.A. § 2002(5), duplicate certificates of title may be issued without fee to the department of buildings and general services to replace those that were destroyed by Tropical Storm Irene.

Sec. 77. FEMA REIMBURSEMENT; TRANSFER TO GENERAL FUND

(a) If the department of environmental conservation is reimbursed by the Federal Emergency Management Agency (FEMA) for department expenditures for flood damage to underground or aboveground fuel storage tanks during Tropical Storm Irene or spring 2011 flooding, the reimbursement amount received from FEMA, up to \$1,700,000, shall be transferred from the petroleum cleanup fund to the general fund.

Sec. 77a. STATE MATCH FOR TROPICAL STORM IRENE OR SPRING FLOODING; FEMA PAYMENTS TO MUNICIPALITIES

(a) Notwithstanding 20 V.S.A. § 45(d), the secretary of administration may establish criteria and procedures governing payments from the emergency

relief and assistance fund, as authorized by 20 V.S.A. § 45(a), in order to provide municipalities with up to the full state and local share of match required by Federal Emergency Management Agency (FEMA) public assistance grants for Tropical Storm Irene or spring 2011 flooding federal disaster relief. Criteria established by the secretary of administration shall reflect levels of damage, as approved by FEMA, and the ability of municipalities to provide matching funds that would otherwise be required.

(b) Payments from the emergency relief and assistance fund to municipalities to meet match requirements for FEMA public assistance grants for Tropical Storm Irene or spring 2011 flooding federal disaster relief shall be reported to the joint fiscal committee and the joint transportation oversight committee for the preceding state fiscal year quarters, cumulatively, by April 15, 2012, July 15, 2012, October 15, 2012, and January 15, 2013, and quarterly on those dates thereafter, until such payments have been completed.

Sec. 78. REPEAL

(a) Sec. B.1101(b) of No. 156 of the Acts of the 2009 Adj. Sess. (2010) (savings associated with the consolidation of servers and other information technology changes) is repealed.

Sec. 79. REPEAL

(a) Sec. E.401(a) of No. 63 of the Acts of 2011 (allocation of funding to workforce investment boards) is repealed.

Sec. 80. REPEAL

(a) 3 V.S.A. § 634 (annual appropriation for group life insurance premiums for retired employees) is repealed.

Sec. 81. REPEAL

(a) 16 V.S.A. § 1385 (appropriation to state board of education for health programs) is repealed.

Sec. 82. REPEAL

(a) 33 V.S.A. § 1974(h) (report on the employer-sponsored insurance premium assistance program) is repealed.

Sec. 83. REPEAL

(a) 33 V.S.A. § 1986 (Catamount fund) is repealed.

Sec. 84. EXPEDITED RULES

(a) Notwithstanding any contrary provision in 3 V.S.A. chapter 25, and to implement the amendments to 8 V.S.A. § 4062 (insurance rate review) in No.

48 of the Acts of 2011 and to comply with 18 V.S.A. § 9375(b)(6)(A) requiring Green Mountain Care board approval beginning on January 1, 2012, the Green Mountain Care board may adopt expedited rules in accordance with this section. Expedited rules under this section shall have the full force and effect of rules adopted under 3 V.S.A. chapter 25 until January 1, 2013 or the board's final adoption of permanent rules to address the same subject matter, whichever is earlier.

(b) The Green Mountain Care board shall:

(1) File the proposed expedited rules with the secretary of state and the legislative committee on administrative rules as a final proposal under 3 V.S.A. § 841, after performing each of the following:

(A) Publication of the proposed expedited rules as provided for in 3 V.S.A. § 839. The publication shall also provide notice of the periods for comment on the proposed expedited rules under subdivisions (1)(B) and (C) of this subsection. The notice shall list the rules to be adopted pursuant to this section and state how a copy of the proposed rules may be obtained.

(B) Provision of a ten business day public comment period on the proposed expedited rules following publication.

(C) Provision of ten business days for formal responses to public comment filed under subdivision (1)(B) of this subsection.

(2) File the proposed expedited rules with the legislative committee on administrative rules no later than 25 business days after the effective date of this act.

(c) The legislative committee on administrative rules shall review, and may approve or object to, the proposed expedited rules under 3 V.S.A. § 842, except that its action shall be completed no later than 10 business days after the final proposed rules are filed with the committee.

(d) The Green Mountain Care board may finally adopt the expedited rules after the passage of 10 business days from the date of filing the proposed expedited rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the board:

(1) has not received a notice of objection from the legislative committee on administrative rules; or

(2) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(e) Expedited rules finally adopted in accordance with this section shall be effective on filing with the secretary of state. Expedited rules filed by the Green Mountain Care board with the secretary of state pursuant to this section shall be deemed to comply with 3 V.S.A. § 843, and shall be accepted by the secretary of state if filed with a certification by the Green Mountain Care board that the rules are required to meet the purposes of this section.

Sec. 85. ADULT DAY ALLOCATION

(a) The fiscal year 2012 allocation for adult day services shall be increased by \$237,000 above the amount that was initially allocated within the funding appropriated in Sec. B.308 of No. 63 of the Acts of 2011.

Sec. 86. SUPPLEMENTAL CHILD CARE GRANTS

(a) From the funds appropriated in Sec. 28 of this act, \$200,000 shall be used to provide special supplemental grants to qualified strengthening families child care providers located in areas where there is limited access to high-quality child care and where the commissioner has determined the grant will further the applicants' sustained operation, or will provide for an orderly transition of subsidized children to alternative service providers. The commissioner for children and families shall submit to the house and senate committees on appropriations on or before March 13, 2012 a general approach to address emergency funding for the future.

(b) From the funds appropriated in Sec. 28 of this act, \$100,000 shall be used for increasing quality in child care programs serving subsidized children in fiscal year 2012 and fiscal year 2013 by increasing the funding for bonuses for child care programs that improve program quality through the child care financial assistance program, "Vermont STARS." Use of the additional funds should be targeted to bonuses for programs with higher percentages of subsidized children and in high need areas. The commissioner shall submit to the house and senate committees on appropriations on or before March 13, 2012 recommendations that would increase access to higher education and advanced training for child care practitioners working directly with young children.

(c) The commissioner shall work with providers to carry out a thorough review and revision of child care regulations and processes, which shall be completed by January 2013. A plan for this initiative shall be submitted to the general assembly on or before March 13, 2012, with a report to be submitted to the general assembly on or before February 15, 2013.

Sec. 87. POSITION AUTHORIZATIONS

(a) The following positions are authorized to be transferred and converted

from existing vacant positions in the executive branch of state government in fiscal year 2012:

(1) In the department of Vermont health access, seventeen (17) classified positions;

(2) In the department for children and families, nine (9) classified positions--social worker;

(A) The intent of the general assembly for these positions is to improve the department's ability to provide services to at-risk children and families and meet caseload standards; however, these positions are not intended to establish a specific caseload for an individual social worker. Such caseloads may vary based on the need levels of the cases any individual social worker is assigned.

(3) In the department of public safety, two (2) classified positions.

(b) It is understood that the department of human resources is in the process of accumulating vacant positions to accomplish the necessary transfers and conversions. It is the intent of the general assembly that these positions be available to the respective departments as soon as possible. For this reason, the commissioner is authorized to assign these new positions in anticipation of the conversions, provided the total of authorized positions in existence at the close of fiscal year 2012 does not exceed that of those positions authorized through the 2011 legislative session, as defined in Sec. A.108 of No. 63 of the Acts of 2011.

(c) On or before March 10, 2012, the commissioner of human resources shall submit a report to the house and senate committees on appropriations detailing the total permitted number of authorized positions as of June 30, 2012, as specified in Sec. A.108 of No. 63 of the Acts of 2011.

(d) On or before July 10, 2012, the commissioner of human resources shall submit a confirmation report to the house and senate committees on appropriations detailing the actual number of authorized state positions as of June 30, 2012, as defined in Sec. A.108 of No. 63 of the Acts of 2011 to confirm that the provisions of this section have been met.

(e) In the agency of transportation, twenty-one (21) new limited service classified positions related to the response to Tropical Storm Irene and Spring 2011 flooding are authorized to be established in fiscal year 2012. These positions shall terminate on June 30, 2014.

Sec. 88. Sec. 9 of No. 88 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 9. IMPLEMENTATION

No later than ~~September 1, 2011~~ November 1, 2012, the secretary of human services or designee shall implement a payment system to pay fuel benefits to certified fuel suppliers after the fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.

Sec. 89. Sec. B.1103(a)(1)(A) of No. 156 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 56 of No. 3 of the Acts of 2011, is further amended to read:

Sec. B.1103 FISCAL YEAR 2011 ONE-TIME APPROPRIATIONS

(a) In fiscal year 2011, the following amounts are appropriated:

(1) For the 27th payday in fiscal 2011:

(A) To the secretary of administration to be transferred to departments as the secretary may determine to be necessary. Of this general fund appropriation, the amount of \$130,000 may be transferred and used for the renter rebate program:

General fund	\$8,350,954	\$7,084,784
Transportation fund		\$2,067,946

Sec. 90. Sec. 38 of No. 40 of the Acts of 2011 is amended to read:

Sec. 38. DEPARTMENT OF CORRECTIONS MASTER PLAN

(a) For the purpose of reducing the number of out-of-state beds at a cost savings to the state, the department of corrections shall:

* * *

(2) ~~modify the Southeast State Correctional Facility into a 50-bed work camp and a 50-bed general population~~ hybrid facility which would include both work camp and general populations.

(b) As part of the transfer required by subdivision (a)(1) of this section, the department of corrections shall:

* * *

(3) ensure individuals are released in accordance with 28 V.S.A. ~~§ 808(a) §§ 808(a) and 808a-808d~~ for the purpose of facilitating furlough or outside programming.

* * *

Sec. 91. Sec. 22 of No. 52 of the Acts of 2011 is amended to read:

Sec. 22. EB-5 ~~ENTERPRISE~~ SPECIAL FUND REPORT

On or before January 15, 2012, the secretary of commerce and community development shall submit a memorandum to the house committee on ways and means and the senate committee on finance concerning the performance of the EB-5 ~~enterprise~~ special fund, including the number of projects and investors served, the amount of the charges imposed and collected, and recommendations concerning the EB-5 ~~enterprise~~ special fund.

Sec. 92. Sec. B.906 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.906 Transportation – ~~planning, outreach and community affairs policy and planning~~

* * *

Sec. 93. Sec. B.1101 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.1101 FISCAL YEAR 2012 BASE REDUCTIONS

(a) In fiscal year 2012, the secretary of administration is authorized to reduce appropriations for labor savings due to unfilled vacant positions, voluntary reduced workweeks, modified health insurance plans for active and retired state employees, reduced state costs in supporting retirement plans, close management of personal services contracts, reduced overtime costs, and for any other management initiatives within the executive branch, excluding reductions to grants, that are necessary to realize the base reductions. The executive branch shall provide status reports to the joint fiscal committee on achievement of this base reduction at meetings in July, September and November of 2011. The commissioner of finance and management is authorized to transfer other funds saved as a result of these initiatives to the general fund in fiscal year 2012:

General fund	~~\$12,000,000~~	<u>\$8,163,552</u>

Sec. 94. Sec. B.1102 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.1102 FISCAL YEAR 2012 CONTRACT IMPLEMENTATION ~~AND HEALTH INSURANCE CLAIMS ASSESSMENT~~

(a) There is appropriated to the secretary of administration for contract nonsalary items ~~and costs from health insurance claims assessments~~, to be transferred to departments as the secretary may determine to be necessary:

General fund	~~\$906,500~~	<u>\$556,500</u>

Sec. 95. Sec. B.1103 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.1103 FISCAL YEAR 2012 ONE-TIME APPROPRIATION

(a) In fiscal year 2012, there is appropriated to the department of tourism and marketing for the Vermont civil war sesquicentennial commission and for commemorating the War of 1812:

General fund

\$50,000

Sec. 96. Sec. 50(b) of No. 3 of the Acts of 2011, as amended by Sec. C.110 of No. 63 of the Acts of 2011, is further amended to read:

(b) The next ~~\$3,600,000~~ \$3,229,596 of any unreserved and undesignated general fund balance is appropriated to the department of labor for unemployment insurance interest. In the event that federal action is taken that results in a payment of unemployment insurance interest not being required, this appropriation shall not be made. Any payment returned to the state due to it not being required shall be deposited into the general fund.

Sec. 97. [DELETED]

Sec. 97a. [DELETED]

Sec. 98. Sec. E.301(b) of No. 63 of the Acts of 2011 is amended to read:

(b) In addition to the state funds appropriated in this section, a total estimated sum of ~~\$27,726,781~~ \$28,671,145 is anticipated to be certified as state matching funds under the Global Commitment as follows:

* * *

(3) ~~\$2,290,874~~ \$2,804,572 certified state match available from local education agencies for eligible services as allowed by federal regulation for early periodic screening, diagnosis, and treatment programs for school-aged children.

(4) ~~\$2,479,534~~ \$2,910,200 certified state match available via the University of Vermont's child health improvement program for quality improvement initiatives for the Medicaid program.

* * *

Sec. 99. Sec. E.309.2(a) of No. 63 of the Acts of 2011 is amended to read:

(a) Beginning ~~April~~ July 1, 2012, the commissioner of Vermont health access shall modify necessary rules and procedures related to eligibility and services to implement the family planning option of section 2303 of the Affordable Care Act of 2010, Public Law 111-148.

Sec. 100. Sec. E.338(d) of No. 63 of the Acts of 2011 is added to read:

(d) In fiscal year 2012, the secretary of administration may, upon recommendation of the secretary of human services, transfer unexpended funds

between the respective appropriations for correctional services and for correctional services – out-of-state beds. At least three days prior to any such transfer being made, the secretary of administration shall report the intended transfer to the joint fiscal office and shall report any completed transfers to the joint fiscal committee at its next scheduled meeting.

Sec. 101. Sec. E.339 of No. 63 of the Acts of 2011 is amended to read:

Sec. E.339 Correctional services – out-of-state beds

(a) The level of funding in this appropriation is contingent upon enactment of ~~separate legislation~~ Senate Bill No. 108 of the 2011 legislative session, related to reduced incarceration of specified nonviolent misdemeanants.

Sec. 102. 4 V.S.A. § 907 is amended to read:

§ 907. LICENSING AND RENEWAL FEES

The supreme court may by rule impose a fee on applicants for admission to the bar on motion and on applicants for admission to the bar by examination. The court may also impose an annual fee on lawyers admitted to the bar of the supreme court as a condition of being licensed to practice law. ~~All fees received shall be transferred to the state treasurer for deposit in the general fund.~~

Sec. 103. 8 V.S.A. § 4089k is amended to read:

§ 4089k. HEALTH CARE INFORMATION TECHNOLOGY REINVESTMENT FEE

(a)(1) Beginning October 1, 2009 and annually thereafter, each health insurer shall pay a fee into the health IT fund established in 32 V.S.A. § 10301 in the amount of 0.199 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid in installments due by November 1, January 1, April 1, and June 1.

(2) On or before ~~September 1, 2009~~ October 1, 2011 and annually thereafter, the secretary of administration, in consultation with the commissioner of banking, insurance, securities, and health care administration, shall publish a list of health insurers subject to the fee imposed by this section, together with the paid claims amounts attributable to each health insurer for the previous fiscal year. The costs of the department of banking, insurance, securities, and health care administration in calculating the annual claims data shall be paid from the Vermont health IT fund.

* * *

Sec. 104. 8 V.S.A. § 4089l is amended to read:

§ 4089l. HEALTH CARE CLAIMS ASSESSMENT

(a)(1) Beginning October 1, 2011 and annually thereafter, each health insurer shall pay an assessment into the state health care resources fund established in 33 V.S.A. § 1901d in the amount of 0.80 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid in installments on November 1, January 1, April 1, and June 1.

(2) On or before ~~September~~ October 1, 2011 and annually thereafter, the secretary of administration, in consultation with the commissioner of banking, insurance, securities, and health care administration, shall publish a list of health insurers subject to the fee imposed by this section together with the paid claims amounts attributable to each health insurer for the previous fiscal year. The costs of the department of banking, insurance, securities, and health care administration in calculating the annual claims data shall be paid from the state health care resources fund.

* * *

(c) As used in this section:

(1) "Health insurance" means any group or individual health care benefit policy, contract, or other health benefit plan offered, issued, renewed, or administered by any health insurer, including any health care benefit plan offered, issued, renewed, or administered by any health insurance company, any nonprofit hospital and medical service corporation, or any managed care organization as defined in 18 V.S.A. § 9402. The term includes comprehensive major medical policies, contracts, or plans and Medicare supplemental policies, contracts, or plans, but does not include Medicaid, VHAP, or any other state health care assistance program financed in whole or in part through a federal program, unless authorized by federal law and approved by the general assembly. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, long-term care, disability income, or other limited benefit health insurance policies, except that any policy providing coverage for dental services shall be included.

* * *

Sec. 105. 10 V.S.A. § 21 is amended to read:

§ 21. EB-5 ~~ENTERPRISE~~ SPECIAL FUND

(a) An EB-5 ~~enterprise~~ special fund is created for the operation of the state of Vermont regional center for immigrant investment under the federal EB-5

program. The fund shall consist of revenues derived from administrative charges by the agency of commerce and community development pursuant to subsection (c) of this section, any interest earned by the fund, and all sums which are from time to time appropriated for the support of the regional center and its operations.

(b)(1) The receipt and expenditure of moneys from the ~~enterprise~~ special fund shall be under the supervision of the secretary of commerce and community development.

* * *

(3) Expenditures from the fund shall be used only to administer the EB-5 program. At the end of each fiscal year, the secretary of administration shall transfer from the EB-5 ~~enterprise~~ special fund to the general fund any amount that the secretary of administration determines, in his or her discretion, exceeds the funds necessary to administer the program.

* * *

Sec. 106. 21 V.S.A. § 2003(d) is amended to read:

(d) Revenues from the health care fund contributions collected shall be deposited into the ~~Catamount Fund~~ state health care resources fund established under 33 V.S.A. ~~§ 1981~~ § 1901d for the purpose of financing health care coverage under Catamount Health assistance, as provided under 33 V.S.A. chapter 19, subchapter 3a of ~~chapter 19 of Title 33.~~

Sec. 107. 27A V.S.A. § 1-204(a)(2) is amended to read:

(2) Unless excepted under section 1-203 of this title, the following sections apply to a common interest community created in this state before January 1, 1999: sections 1-206; 2-102, 2-117(h) and (i), 2-124, 3-103, 3-108, 3-110, and 3-124. The sections described in this subdivision apply only to events and circumstances occurring after December 31, ~~2010~~ 2011 and do not invalidate existing provisions of the declarations, bylaws, plats, or plans of those common interest communities.

Sec. 108. 32 V.S.A. § 305a(a) is amended to read:

(a) On or about January 15 and again by July 31 of each year, and at such other times as the emergency board or the governor deems proper, the joint fiscal office and the secretary of administration shall provide to the emergency board their respective estimates of state revenues in the general, transportation, transportation infrastructure bond, education, ~~Catamount~~, and state health care resources funds, and revenues from the gross receipts tax under 33 V.S.A. § 2503. The January revenue estimate shall be for the current and next two

succeeding fiscal years, and the July revenue estimate shall be for the current and immediately succeeding fiscal years. Federal fund estimates shall be provided at the same times for the current fiscal year. Global Commitment fund estimates shall be provided in January for the current and immediately succeeding fiscal year and in July for the current fiscal year.

Sec. 109. 32 V.S.A. § 7823 is amended to read:

§ 7823. DEPOSIT OF REVENUE

The revenue generated by the taxes imposed under this chapter shall be credited to the state health care resources fund established by 33 V.S.A. § 1901d ~~and the Catamount fund established by 33 V.S.A. § 1986.~~

Sec. 110. 33 V.S.A. § 1901d is amended to read:

§ 1901d. STATE HEALTH CARE RESOURCES FUND

(a) The state health care resources fund is established in the treasury as a special fund to be a source of financing health care coverage for beneficiaries of the state health care assistance programs under the Global Commitment to health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act and for the Catamount Health assistance program under subchapter 3A of chapter 19 of this title.

(b) Into the fund shall be deposited:

(1) ~~all revenue from the tobacco products tax and 85.5 percent of the revenue from the cigarette tax levied pursuant to 32 V.S.A. chapter 205 of Title 32;~~

(2) revenue from health care provider assessments pursuant to subchapter 2 of chapter 19 of this title; ~~and~~

(3) revenue from the employer health care premium contribution pursuant to 21 V.S.A. chapter 25;

(4) revenue from health care claims assessments pursuant to 8 V.S.A. § 4089l;

(5) premium amounts paid by individuals unless paid directly to the insurer;

(6) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute, rule, or act of the general assembly; and

(7) Any remaining balance in the terminated Catamount fund as of June 30, 2012.

* * *

(d) All monies received by or generated to the fund shall be used only as allowed by appropriation of the general assembly for the administration and delivery of health care covered through state health care assistance programs administered by the agency under the Global Commitment for Health Medicaid Section 1115 waiver, the Catamount Health assistance program under subchapter 3A of chapter 19 of this title, employer-sponsored insurance premium assistance under § 1974 of this title, immunizations under 18 V.S.A. § 1130, and the development and implementation of the Blueprint for Health under 18 V.S.A. § 702.

Sec. 111. 33 V.S.A. § 1901f is added to read:

§ 1901f. MEDICAID PROGRAM ENROLLMENT AND EXPENDITURE REPORTS

By January 30, April 30, July 30, and October 30 of each year the commissioner of Vermont health access or designee shall submit to the general assembly a quarterly report on enrollment and total expenditures by Medicaid eligibility group for all programs paid for by the department of Vermont access during the preceding calendar quarter and for the fiscal year to date. Total expenditures for Medicaid-related programs paid for by other departments within the agency of human services shall be included in this report by Medicaid eligibility group to the extent such information is available.

Sec. 112. 33 V.S.A. § 2604(a) is amended to read:

(a) Household income eligibility requirements. The secretary of human services or designee, by rule, shall establish household income eligibility requirements of beneficiaries in the seasonal fuel assistance program including the income of all residents of the household. The income eligibility requirements shall require that households have a gross household income no greater than 185 percent of the federal poverty level nor in excess of income maximums established by LIHEAP in order to be potentially eligible for benefits. To the extent allowed by federal law, the secretary of human services or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

Sec. 113. 33 V.S.A. § 2609 is amended to read:

§ 2609. CRISIS RESERVES

Annually, the secretary of human services or designee shall determine an appropriate amount of funds in the home heating fuel assistance fund to be set aside for expenditure for the crisis fuel assistance component of the home heating fuel program. The secretary or designee shall also adopt rules to define crisis situations for the expenditure of the home heating fuel crisis funds, and to establish the income and asset eligibility requirements of households for receipt of crisis home heating fuel assistance, provided that no household shall be eligible whose gross household income is greater than 200 percent of the federal poverty level or is in excess of income maximums established by LIHEAP based on the income of all persons residing in the household. To the extent allowed by federal law, the secretary or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

Sec. 113a. RESERVE AND SURPLUS POLICY REVIEW

(a) The general assembly recognizes that the use of general fund surpluses and the structure of general fund reserves is an area in need of review. This recognition is evidenced by proposals of the administration to increase stabilization reserves; the importance of reserves for several purposes, including the state response to Tropical Storm Irene and other emergencies; the provision of LIHEAP funding; and the ability to mitigate the recent general fund revenue downgrade and cushion future federal funding reductions.

(b) The use of surpluses has also been raised with a house proposal of amendment to use possible fiscal year 2013 surpluses to increase the general fund transfer for K-12 education. The house proposal raises a range of complexities and concerns in understanding the impact on legislatively initiated efforts to reduce increases in education spending and expectations to direct use of savings in choices for care and justice reinvestment programs.

(c) The significance of these budget and policy issues with competing demands on any potential general fund surplus warrants a comprehensive review of the use of reserves and surpluses. It is the intent of the general assembly to formulate a policy response to address these competing interests during the fiscal year 2013 budget development process.

Sec. 114. ACCEPTANCE OF SETTLEMENT FUNDS

(a) In accordance with the settlement resulting from an assurance of discontinuance (AOD) between the State of Vermont/Office of the Attorney General and Pyrofax which was fully executed January 18, 2012, \$100,000 shall be deposited in the home heating fuel assistance fund established in 33

V.S.A. § 2603. These funds are appropriated for expenditure in addition to funds appropriated in Sec. B.324 of No. 63 of the Acts of 2011.

Sec. 115. 32 VSA § 313(a) is amended to read:

(a) Annually, beginning January 31, 2010, the department of finance and management shall publish on its website a report on all grants of federal monies made by each executive branch agency in the preceding ~~calendar~~ state fiscal year. The report shall be formatted as a table and shall include, for each grant issued after October 1, 2008:

* * *

Sec. 116. 32 VSA § 314(a) is amended to read:

(a) Annually, beginning January 31, 2015, the department of finance and management shall publish on its website a report on all grants of federal and state monies made by each executive branch agency in the preceding ~~calendar~~ state fiscal year. The report shall be formatted as a table and shall include, for each grant:

* * *

Sec. 117. FISCAL YEAR 2012 SETOFF LIMIT

(a) Notwithstanding 32 V.S.A. § 5933, claimant agencies may submit debts of \$25.00 or more for collection of debt through setoff in fiscal year 2012.

Sec. 118. EFFECTIVE DATES

(a) This act shall take effect on passage.

(b) Secs. 83, 106, 108, 109, and 110 of this act shall take effect on July 1, 2012.

(c) The inclusion of coverage for dental services in Sec. 104 of this act as it amends 8 V.S.A. § 4089l(c)(1) shall apply as of January 1, 2012.

(d) Sec. 107 of this act (applicability of UCIOA amendments of 2012) shall take effect on passage and shall apply retroactively to January 1, 2012.

(e) The amendments to income eligibility requirements in Secs. 112 and 113 of this act, amending 33 V.S.A. §§ 2604(a) and 2609, respectively, shall apply retroactively to June 1, 2010.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Heath of Westford** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Heath of Westford
Rep. Johnson of South Hero
Rep. Acinapura of Brandon

Adjournment

At ten o'clock and thirty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, February 15, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Michael Murray of the United Christian Assembly Church in Jericho, VT.

Message from the Senate No. 14

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 46. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Senate has on its part passed Senate bills of the following titles:

S. 113. An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools.

S. 203. An act relating to child support enforcement.

S. 236. An act relating to health care practitioner signature authority.

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

The Governor has informed the Senate that on the ninth day of February, 2012, he approved and signed a bill originating in the Senate of the following title:

S. 249. An act relating to Vermont Strong commemorative motor vehicle plates.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the sixth day of February, 2012, he approved and signed bills originating in the House of the following titles:

H. 507 An act relating to authorizing the city of Burlington to issue in fiscal year 2012 the school bond approved in 2009.

H. 515 An act relating to holding public agencies harmless for disclosure of property tax adjustment information

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the tenth day of February, 2012, he approved and signed a bill originating in the House of the following title:

H. 505 An act relating to allowing the treasurer to defer the December 1, 2011 education payments to help towns affected by federal disasters in 2011 in Vermont

Committee Bill Introduced**H. 759**

Rep. Lippert of Hinesburg, for the committee on Judiciary, introduced a bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 113

Senate bill, entitled

An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools;

To the committee on Education.

S. 203

Senate bill, entitled

An act relating to child support enforcement;

To the committee on Judiciary.

S. 236

Senate bill, entitled

An act relating to health care practitioner signature authority;

To the committee on Health Care.

Bill Referred to Committee on Appropriations**H. 556**

House bill, entitled

An act relating to creating a private activity bond advisory committee

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Adopted in Concurrence**J.R.S. 46**

By Senators Carris and Mullin,

J.R.S. 46. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, February 16, 2012, or, Friday, February 17, 2012, it be to meet again no later than Tuesday, February 21, 2012.

Was taken up read and adopted in concurrence.

Committee Appointment

The Speaker appointed **Rep. Krowinski of Burlington** to the committee on Human Services.

Bill Amended; Third Reading Ordered**H. 39**

Rep. Andrews of Rutland City, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to advance directives for service members

Reported in favor of its passage when amended as follows:

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

Sec. 1. 18 V.S.A. § 9715 is amended to read:

§ 9715. INTERPRETATION WITH OTHER LAWS

* * *

(d) Nothing in this chapter shall be construed to limit the effect of a DD Form 93 (Record of Emergency Data) properly executed by a current or former member of the armed forces of the United States described in 10 U.S.C. § 1481(a).

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and by amending the title of the bill to read “An act relating to persons authorized to direct disposition of service members’ remains”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on General, Housing and Military Affairs agreed to and third reading ordered.

Rules Suspended; Bill Committed**H. 759**

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Lippert of Hinesburg**, the rules were suspended and House bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

Was taken up for immediate consideration.

Pending second reading of the bill, on motion of **Rep. Lippert of Hinesburg**, the bill was committed to the committee on Judiciary.

Adjournment

At one o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, February 16, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Paul Habersang of Christ Episcopal Church, Montpelier, VT.

Message from the Senate No. 15

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

H. 558. An act relating to fiscal year 2012 budget adjustment.

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Kitchel
Senator Sears
Senator Snelling

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 37. Senate concurrent resolution honoring the military valor of United States Army Staff Sgt. Dylan J. Maynard.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 254. House concurrent resolution congratulating the 2011 Springfield High School Division II championship softball team.

H.C.R. 256. House concurrent resolution congratulating Brandon Fire District #1 Superintendent Ray Counter and the Brandon Fire District #1

Prudential Committee on the district's designation as a Class II water system.

H.C.R. 257. House concurrent resolution congratulating Kristen Kelliher on becoming the youngest female to scale the highest points in each of the lower 48 states.

H.C.R. 258. House concurrent resolution recognizing the spirit of Vermont Strong online, in music, and as a commemorative license plate.

H.C.R. 259. House concurrent resolution congratulating the Suicide Six Ski Area in Woodstock on its 75th anniversary.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 746

Rep. Head of South Burlington moved that the committee on General, Housing and Military Affairs be relieved of House bill, entitled

An act relating to employment of cosmetologists

And that the bill be committed to the committee on Commerce and Economic Development, which was agreed to.

Third Reading; Bill Passed

H. 39

House bill, entitled

An act relating to persons authorized to direct disposition of service members' remains

Was taken up, read the third time and passed.

Bill Read Second Time; Third Reading Ordered

H. 758

Rep. Lippert of Hinesburg spoke for the committee on Judiciary.

House bill entitled

An act relating to divorce and dissolution proceedings

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Amended; Third Reading Ordered

H. 512

Rep. Kitzmiller of Montpelier, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to banking, insurance, securities, and health care administration

Reported in favor of its passage when amended as follows:

First: In Sec. 9, 8 V.S.A. § 2405(f), in both subdivisions (1) and (2), by striking out the words “to the commissioner” and inserting in lieu thereof “to the department”

Second: By striking out Sec. 42 in its entirety and by inserting in lieu thereof a new Sec. 42 to read as follows:

Sec. 42. STUDY REGARDING THE CONVERSION OF NONPROFIT HOSPITALS

(a) The commissioner of banking, insurance, securities, and health care administration, in consultation with the attorney general or designee, a representative from the Vermont Association of Hospitals and Health Systems, and any other interested parties the commissioner deems appropriate, shall conduct a study of Vermont’s law pertaining to the conversion of nonprofit hospitals, 18 V.S.A. § 9420. The commissioner shall determine:

(1) whether the definition of “qualifying amount” should be clarified or amended in any manner. For example, the commissioner shall consider whether the “assets” reviewed in making threshold determinations should be further defined or qualified, not only in terms of the amount but also the type of assets subject to jurisdiction under 18 V.S.A. § 9420; or, more broadly, whether a new standard, such as a materiality standard, should apply;

(2) whether the definition of “convert” should be clarified or amended in any manner. For example, the commissioner shall consider whether the sale of securities, bequests, buildings, and equipment, and contracts with physician and management groups should be specifically excluded from the term;

(3) whether the term “related conversions,” as it applies to conversions that must be aggregated for purposes of whether the threshold requirements have been met, should be further defined or clarified in any manner. For example, the commissioner shall consider whether a specific “look back” provision pertaining to prior conversions should be included in the statute and, if so, to what extent;

(4) whether nonprofit hospitals should provide prior written notice to the commissioner and the attorney general of conversions of less than the qualifying amount of assets. In making this determination, the commissioner

shall consider the administrative burden and costs that a hospital would incur in complying with such a requirement;

(5) if the conversion also meets the threshold requirements of the certificate of need process, whether parallel investigations are necessary and, if so, whether the investigations can be conducted in a more coordinated manner to diminish the administrative burden on the applicable hospital, while not compromising the state's existing regulatory objectives;

(6) whether existing or new exemptions are appropriate; and

(7) whether other amendments to the subject law would serve the general good of the state.

(b) The commissioner shall report his or her findings and recommendations to the house committee on commerce and economic development and the senate committee on finance not later than December 1, 2012. If the commissioner proposes any statutory amendments, he or she shall provide a detailed rationale for each such proposal.

(c) It is the intent of the general assembly that there be sufficient state supervision of and involvement in any work group established under this section, consistent with federal and state antitrust laws.

Rep. Johnson of Canaan, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Commerce and Economic Development.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Commerce and Economic Development and Ways and Means agreed to and third reading ordered.

Adjournment

At two o'clock and fifteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, February 17, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

House Bill Introduced**H. 760**

By the committee on Human Services,

An act relating to lowering to 16 the age of consent for blood donation;

Under the rule, placed on the Calendar for notice.

Bill Referred to Committee on Appropriations**H. 559**

House bill, entitled

An act relating to health care reform implementation

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

**Committee Relieved of Consideration
and Bill Committed to Other Committee****H. 577**

Rep. Heath of Westford moved that the committee on Appropriations be relieved of House bill, entitled

An act relating to public water systems

And that the bill be committed to the committee on Corrections and Institutions, which was agreed to.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 512

House bill, entitled

An act relating to banking, insurance, securities, and health care administration;

H. 758

House bill, entitled

An act relating to divorce and dissolution proceedings;

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the sixteenth day of February, 2012, he approved and signed a bill originating in the House of the following title:

H. 258 An act relating to public participation in environmental enforcement proceedings

Adjournment

At ten o'clock in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, February 20, 2012, at one o'clock in the afternoon, pursuant to the provisions of J.R.S. 48.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 260

House concurrent resolution honoring the 2011 class of Vermont Boy Scouts awarded the rank of Eagle;

H.C.R. 261

House concurrent resolution in memory of Michael J. Garofano and Michael G. Garofano;

H.C.R. 262

House concurrent resolution in memory of former Representative Kermit Welch Richardson of Orange;

H.C.R. 263

House concurrent resolution in memory of Stephen Eddy of Rutland;

H.C.R. 264

House concurrent resolution in memory of Sister Elizabeth Candon, RSM (Sr. Mary Patrick);

H.C.R. 265

House concurrent resolution congratulating Tong Chen as Vermont's 2012 Teacher of the Year;

H.C.R. 266

House concurrent resolution proudly commemorating the centennial anniversary of the University of Vermont Extension;

H.C.R. 267

House concurrent resolution congratulating Keegan Bradley on winning the 2011 PGA Championship and the 2011 PGA Grand Slam, and being named the 2011 PGA Tour Rookie of the Year;

H.C.R. 268

House concurrent resolution honoring Swanton town administrator Richard Thompson;

H.C.R. 269

House concurrent resolution designating November 2012 as Chronic Obstructive Pulmonary Disease Awareness Month in Vermont;

H.C.R. 270

House concurrent resolution congratulating the Mt. Ascutney Hospital and Health Center on winning the 2011 Foster G. McGaw Prize for Excellence in Community Service;

H.C.R. 271

House concurrent resolution in memory of Frederick M. Faeth, Jr.;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Monday, February 20, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Committee Bill Introduced

H. 761

Rep. Ancel of Calais, for the committee on Ways and Means, introduced a bill, entitled

An act relating to executive branch fees, including motor vehicle and fish and wildlife fees

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Adjournment

Noting the absence of a quorum, the Speaker adjourned, according to Rule 9, at one o'clock and fifteen minutes in the afternoon, until tomorrow at ten o'clock in the forenoon.

Tuesday, February 21, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Mark Hudson, Executive Director of the Vermont Historical Society.

Pledge of Allegiance

Page Julie Decker of Williston, led the House in the Pledge of Allegiance.

Message from the Senate No. 16

A message was received from the Senate by Mr. Bloomer, its Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 245. An act relating to requiring cardiovascular care instruction in public and independent schools.

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

Senate Bill Referred

S. 245

Senate bill, entitled

An act relating to requiring cardiovascular care instruction in public and independent schools

Was read and referred to the committee on Education.

Bill Read Second Time; Third Reading Ordered**H. 760**

Rep. Burditt of West Rutland spoke for the committee on Human Services.

House bill entitled

An act relating to lowering to 16 the age of consent for blood donation

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Amended; Third Reading Ordered**H. 634**

Rep. Reis of St. Johnsbury, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to remedies for failure to pay municipal tickets

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 1981 is amended to read:

§ 1981. ENFORCEMENT OF ORDER FROM JUDICIAL BUREAU

(a) Upon entry of a judgment after hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the judicial bureau. Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the judicial bureau.

(b) In addition to any other civil remedies available by law, a final judgment of the judicial bureau that has not been satisfied within 30 days shall, upon due recordation in the land records of the town in which any real or personal property of the defendant is located, constitute a lien upon that real or personal property, except for motor vehicles as defined by 23 V.S.A. § 4(21), and may be enforced within the time and in the manner provided for the collection of taxes pursuant to 32 V.S.A. chapter, subchapter 8, ~~chapter 133 of Title 32~~.

~~(c) The supreme court shall establish rules which provide for an expedited process in small claims court for the collection of judgments to enforce the~~

~~orders of the judicial bureau~~ The remedies of civil contempt and referral to a collections agency for failure to pay a judicial bureau judgment under this section shall be as provided in 4 V.S.A. § 1109(c) and (d).

~~(d) Upon motion of the municipal attorney, grand juror or other person designated by the legislative body of the municipality and proof by affidavit that the person found in violation has not paid the penalty, in the time set forth in subsection (a) of this section, the bureau shall send to the person found in violation a notice that the penalty must be paid within 20 days of receipt of notice. The notice shall include a warning that failure to pay the penalty within 20 days of the notice will result in a proceeding for contempt before the criminal division of the superior court, and a \$10.00 surcharge has been added to the penalty.~~

~~(e) If the penalty is not paid within the 20 days the bureau shall send a notice to the criminal division of the superior court in the county in which the violation occurred. The clerk of the criminal division of the superior court shall forthwith provide notice to the person of a hearing for civil contempt proceedings pursuant to 12 V.S.A. § 122 for the failure to pay the penalty imposed by the bureau. A finding of contempt for failure to pay the penalty shall include an order that a nonpayment surcharge of an additional \$10.00 shall be added to the penalty and surcharge set forth in subsection (a) of this section for the benefit of the municipality.~~

Sec. 2. TRANSITIONAL PROVISION

Any municipal ordinance violation that was transferred to the district court or the criminal division of the superior court prior to the effective date of this act shall be transferred by the criminal division to the judicial bureau for adjudication and collection pursuant to 24 V.S.A. § 1981.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 753

Rep. Peltz of Woodbury spoke for the committee on Education.

Rep. Heath of Westford, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to encouraging school districts and supervisory unions to provide services cooperatively or to consolidate governance structures

Reported in favor of its passage when amended as follows:

First: In Sec. 10, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c)(1) A RED receiving incentives pursuant to Sec. 4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act ("Act 153") is not eligible to receive a grant under this section.

(2) An interstate, union, or unified union school district, including a RED, that expands by merging with one or more additional school districts is not eligible to receive a grant under this section if the original merged district received a transition facilitation grant under this section, Act 153, or 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, as further amended by Sec. 5 of No. 153 of the Acts of the 2009 Adj. Sess. (2010), and as repealed by Sec. 9 of this act.

Second: After Sec. 10 and before the internal heading "* * * Incentives; Regional Education Districts * * *" by inserting a new section to be Sec. 10a to read:

Sec. 10a. APPLICABILITY; JOINT CONTRACT SCHOOL

A transition facilitation grant pursuant to Sec. 10 of this act shall be paid proportionally based on enrollment to any group of districts if in fiscal year 2012 or 2013 the voters of each district approve the issuance of bonds upon which establishment of a joint contract school is conditioned. The combined enrollment of the grades newly being offered jointly by the contracting districts shall be used to calculate the amount awarded.

Third: By adding a new section to be Sec. 19a to read:

Sec. 19a. APPROPRIATION

The sum of \$650,000.00 is appropriated from the education fund to be used for the purposes of this act in fiscal year 2013.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committee on Appropriations agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Davis of Washington** moved to amend the bill as follows:

By adding two new sections to be Secs. 19a and 19b to read:

Sec. 19a. AGREEMENTS BETWEEN DISTRICTS

It is the policy of the state of Vermont that:

(1) the consolidation of school districts, their assets, or their operations should result from the voluntary action of local communities; and

(2) school districts shall retain their authority to enter into interdistrict contracts to consolidate or share district assets or operations without the need to explore merger under Secs. 2–4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010), relating to the formation of regional education districts, or under 16 V.S.A. chapter 11, relating to the formation of union school districts in general.

Sec. 19b. 16 V.S.A. § 261a(a) is amended to read:

(a) Duties. ~~The~~ Except if the board of a member school district votes to perform the action on its own behalf, the board of each supervisory union shall:

* * *

Pending the question, Shall the bill be amended as recommended by Rep. Davis of Washington? **Rep. Davis of Washington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Davis of Washington? was decided in the negative. Yeas, 21. Nays, 110.

Those who voted in the affirmative are:

Bouchard of Colchester	Hebert of Vernon	Peaslee of Guildhall
Branagan of Georgia *	Howard of Cambridge	Scheuermann of Stowe *
Browning of Arlington	Howrigan of Fairfield	Smith of New Haven
Burditt of West Rutland	Larocque of Barnet	Stevens of Shoreham
Conquest of Newbury	Moran of Wardsboro	Strong of Albany
Davis of Washington *	Olsen of Jamaica	Wilson of Manchester
Haas of Rochester	Pearson of Burlington	Zagar of Barnard

Those who voted in the negative are:

Acinapura of Brandon	Bohi of Hartford	Christie of Hartford
Ancel of Calais	Botzow of Pownal	Clark of Vergennes
Andrews of Rutland City	Brennan of Colchester	Clarkson of Woodstock
Aswad of Burlington	Burke of Brattleboro	Condon of Colchester
Atkins of Winooski	Buxton of Tunbridge	Consejo of Sheldon
Bartholomew of Hartland	Campion of Bennington	Copeland-Hanzas of
Batchelor of Derby	Canfield of Fair Haven	Bradford
Bissonnette of Winooski	Cheney of Norwich	Corcoran of Bennington

Courcelle of Rutland City	Krebs of South Hero	Partridge of Windham
Dakin of Chester	Krowinski of Burlington	Pearce of Richford
Devereux of Mount Holly	Kupersmith of South	Peltz of Woodbury
Dickinson of St. Albans	Burlington	Perley of Enosburgh
Town	Lanpher of Vergennes	Potter of Clarendon
Donaghy of Poultney	Lawrence of Lyndon	Pugh of South Burlington
Donahue of Northfield	Lenes of Shelburne	Ram of Burlington
Donovan of Burlington	Leriche of Hardwick	Reis of St. Johnsbury
Ellis of Waterbury	Lewis of Berlin	Russell of Rutland City
Emmons of Springfield	Lewis of Derby	Savage of Swanton
Evans of Essex	Lippert of Hinesburg	Shand of Weathersfield
Fagan of Rutland City	Lorber of Burlington	Sharpe of Bristol
Fisher of Lincoln	Macaig of Williston	Shaw of Pittsford
Frank of Underhill	Malcolm of Pawlet	South of St. Johnsbury
French of Shrewsbury	Manwaring of Wilmington	Spengler of Colchester
French of Randolph	Marcotte of Coventry	Stevens of Waterbury
Gilbert of Fairfax	Marek of Newfane	Stuart of Brattleboro
Grad of Moretown	Martin of Springfield	Taylor of Barre City
Greshin of Warren	Masland of Thetford	Till of Jericho
Head of South Burlington	McCullough of Williston	Toll of Danville
Heath of Westford	McFaun of Barre Town	Townsend of Randolph
Hooper of Montpelier	McNeil of Rutland Town	Trieber of Rockingham
Jerman of Essex	Miller of Shaftsbury	Waite-Simpson of Essex *
Jewett of Ripton	Mook of Bennington	Webb of Shelburne
Johnson of South Hero	Mrowicki of Putney	Winters of Williamstown
Johnson of Canaan	Munger of South Burlington	Wizowaty of Burlington
Kitzmiller of Montpelier	Myers of Essex	Woodward of Johnson
Klein of East Montpelier	Nuovo of Middlebury	Yantachka of Charlotte
Koch of Barre Town	O'Brien of Richmond	Young of Glover
Komline of Dorset	O'Sullivan of Burlington	

Those members absent with leave of the House and not voting are:

Crawford of Burke	Higley of Lowell	Morrissey of Bennington
Deen of Westminster	Hubert of Milton	Poirier of Barre City
Degree of St. Albans City	Keenan of St. Albans City	Ralston of Middlebury
Eckhardt of Chittenden	Kilmartin of Newport City	Sweaney of Windsor
Edwards of Brattleboro	Martin of Wolcott	Turner of Milton
Helm of Fair Haven	McAllister of Highgate	Wright of Burlington

Rep. Branagan of Georgia explained her vote as follows:

“Mr. Speaker:

Local control has been a strength in our Vermont communities for a long time. It is part of the reason our schools are so good. This amendment states it is policy for the will of local communities to take the lead in school

consolidation, inter-district contracts and supervisory union activities. It should have been approved.”

Rep. Davis of Washington explained her vote as follows:

“Mr. Speaker:

This amendment keeps the law the same BUT says that the board of a local school district can decide that it is going to perform a duty itself that would otherwise be provided by the Supervisory Union. Smaller districts are extremely capable when it comes to improving academic performance.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

I vote yes to do what I can to return control of education to our local communities and regions. This amendment would ensure that Montpelier does not mandate school district mergers and school closures. It does not, however, preclude us from providing greater opportunities to our children by reducing overhead at the supervisory union level and consolidating them.”

Rep. Waite-Simpson of Essex explained her vote as follows:

“Mr. Speaker:

If school districts can show that local control is better for students and cost effective, they can petition the State Board of Education for a waiver. We were very careful to ensure due process when we first imposed this regulation and it is for that reason that I vote “no”.

Pending the question, Shall the bill be read a third time? **Rep. Olsen of Jamaica** moved to amend the bill as follows:

By adding a new section to be Sec. 19a to read:

Sec. 19a. 16 V.S.A. § 4001(6)(B)(viii) is added to read:

(viii) For a regional education district formed pursuant to the provisions of Sec. 4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010), as amended from time to time, that provides for the education of resident pupils in one or more grades by paying tuition and does not maintain a school that includes the grades or grades, and into which additional students move after the end of the census period defined in subdivision (1)(A) of this section, the number of students that exceeds the district’s most recent average daily membership and for whom the district will pay tuition in the subsequent year multiplied by the district’s average rate of tuition paid in that year.

Thereupon, **Rep. Olsen of Jamaica** asked and was granted leave of the House to withdraw his amendment.

Thereupon, third reading was ordered.

Adjournment

At eleven o'clock and forty minutes in the forenoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, February 22, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Rebecca Strader of First Presbyterian Church, Graniteville, VT.

Message from the Senate No. 17

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 47. Joint resolution urging the United States Postal Service not to implement its proposed major reductions and urging Congress to enact the Postal Service Protection Act.

In the adoption of which the concurrence of the House is requested.

Committee Bill Introduced

H. 762

Rep. Botzow of Pownal, for the committee on Commerce and Economic Development, introduced a bill, entitled

An act relating to workers' compensation and unemployment compensation

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Joint Resolution Placed on Calendar**J.R.S. 47**

By Senators Ashe, Campbell, Carris, Doyle, Illuzzi, McCormack and Nitka,

J.R.S. 47. Joint resolution urging the United States Postal Service not to implement its proposed major reductions and urging Congress to enact the Postal Service Protection Act.

Whereas, the motto of the United States Postal Service (USPS) proclaims that “neither rain, nor sleet, nor gloom of night stays these couriers from the swift completion of their appointed rounds,” and

Whereas, although severe weather conditions may not be a barrier to the prompt delivery of the United States mail, apparently administrative ineptitude and poor planning may prove a far more likely reason for impeded mail delivery, and

Whereas, in 2011, the USPS proposed a major reduction in postal services that if implemented would shutter 252 mail-processing facilities nationwide and could result in the elimination of 100,000 jobs, and

Whereas, in Vermont, the White River Junction mail-processing center and potentially 15 local post offices, many of them rural, could close, and

Whereas, should the White River Junction processing facility be closed, jobs in Burlington and Manchester, New Hampshire could also be affected, potentially resulting in an overall loss of 51 jobs and the relocation of 195 other USPS employees, and

Whereas, Article 1, Section 8, Clause 7 of the United States Constitution provides that “The Congress shall have Power . . . To establish Post Offices and post Roads,” and

Whereas, unlike most federally organized agencies, the USPS is entirely self-funded, and USPS revenues help defray the federal deficit, and were these revenues not being diverted for deficit reduction purposes, they could be used to help underwrite the cost of the USPS, and

Whereas, the USPS connects virtually every United States and territorial address and is a vital link for locations with inadequate Internet service, as is the case in a number of Vermont communities, and

Whereas, the fiscal crisis that confronts the USPS results from a requirement that it prefund its retiree health benefit fund for 75 years in advance, within a 10-year time frame, at an annual cost of \$5.5 billion, and

were this federal requirement struck, the USPS would be operating nearly debt-free and with a \$15 billion line of credit, and

Whereas, if these cutbacks come to fruition, the one-day in-state delivery of mail would become a two- to three-day time lag, and

Whereas, as an alternative to eliminating the 75-year prefunding requirement, were the price of a first class letter raised from 44 cents to 57 cents, which would still make the USPS the least expensive postal service in the industrial West, then none of the processing plants would need to be closed, and

Whereas, in December 2011, in response to the strong public and Congressional outcry, United States Postmaster General Patrick Donahoe delayed the implementation date until May 15, 2012, and

Whereas, on the night of January 4, 2012, a large crowd of approximately 500 persons attended a USPS-sponsored forum held at the American Legion Hall in White River Junction where many of the attendees, both postal workers and the general public, expressed strong opposition to the closure plans, criticizing the economic impact on both service quality and the loss of jobs, and

Whereas, among the attendees were Governor Peter Shumlin, Secretary of Commerce and Community Development Lawrence Miller, Commissioner of Labor Annie Noonan, the entire Vermont Congressional delegation including United States Senator Bernie Sanders, who spoke of “a death spiral for the post office,” and members of the General Assembly, all of whom were present to express their support for keeping the White River Junction processing center and all Vermont post offices open, and

Whereas, in response to the intended USPS reductions, Senator Bernie Sanders has introduced the Postal Service Protection Act, which would: eliminate the 75-year advance funding requirement and enable the USPS to recover the overpayment of at least \$50 billion that it has made to the fund; eliminate the prohibition on the USPS providing nonpostal services; prevent the closing of rural post offices; protect six-day delivery; and protect mail processing facilities, and

Whereas, the health of Vermont’s predominantly rural economy is extremely dependent on the robust operation of the United States Postal Service’s six-days-per-week delivery of documents, packages, and personal correspondence, and the closing of the White River Junction processing center and any local post offices is not easily measurable and could result in unforeseen negative economic consequences for Vermont, and

Whereas, the integrity of the USPS would be severely threatened should the proposed reductions take effect, and the legislation that Senator Bernie Sanders has proposed would provide a more sound financial basis for USPS operations, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the United States Postal Service not to implement its proposed major reductions and further urges Congress to enact the Postal Service Protection Act, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Northern New England District of the United States Postal Service, to United States Postmaster General Patrick Donahoe, and to the

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Rules Suspended; Bill Committed

H. 762

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Botzow of Pownal**, the rules were suspended and House bill, entitled

An act relating to workers' compensation and unemployment compensation
Was taken up for immediate consideration.

Pending second reading of the bill, on motion of **Rep. Botzow of Pownal**, the bill was committed to the committee on Commerce and Economic Development.

Third Reading; Bill Passed

H. 634

House bill, entitled

An act relating to remedies for failure to pay municipal tickets
Was taken up, read the third time and passed.

Bill Amended, Read Third Time and Passed

H. 753

House bill, entitled

An act relating to encouraging school districts and supervisory unions to provide services cooperatively or to consolidate governance structures

Was taken up and pending third reading of the bill, **Rep. Till of Jericho** moved to amend the bill as follows:

By adding a new section to be Sec. 14a to read:

Sec. 14a. MODIFIED UNIFIED UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of law to the contrary:

(1)(A) if all local elementary school districts in the member towns of an existing union high school or union middle school-high school district ("union high school district") vote whether to establish a unified union school district providing prekindergarten or kindergarten through grade 12, and

(B) if a majority but not all of the elementary school districts votes in favor of establishing the unified union school district, then

(2) a new modified union school district (the "modified union school district") shall be established that shall:

(A) provide to the students residing in the member towns of the union high school district education in those grades provided by the union high school district; and

(B) provide elementary education to the students residing in the current elementary school districts that voted in favor of the unified union school district.

(b) Establishment of the modified union school district shall:

(1) dissolve the union high school district, and any assets or liabilities held by the union high school district shall be transferred to the modified union school district; and

(2) dissolve the elementary school districts that voted in favor of establishing the unified union school district, and any assets or liabilities they hold as individual districts shall be transferred to the modified union school district.

(c) Notwithstanding provisions of No. 153 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act to the contrary, the modified union school district is eligible for the incentives provided to a regional education district ("RED") in Sec. 4 of that act, provided that the effective date of the merger into the modified union school district is within the period required for RED formation.

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

Which was agreed to.

Pending third reading of the bill, **Rep. Olsen of Jamaica** moved to amend the bill as follows:

By adding a new section to be Sec. 19b to read:

Sec. 19b. 16 V.S.A. § 4001(6)(B)(viii) is added to read:

(viii) For a regional education district formed pursuant to the provisions of Sec. 3 of No. 153 of the Acts of the 2009 Adj. Sess. (2010), as amended from time to time, that provides for the education of resident pupils in one or more grades by paying tuition and does not maintain a school that includes the grade or grades:

(I) a budget deficit under the terms set forth in subdivision (vi) of this subdivision (6)(B); or

(II) unexpected tuition costs under the terms set forth in subdivision (vii) of this subdivision (6)(B).

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Third Reading; Bill Passed

H. 760

House bill, entitled

An act relating to lowering to 16 the age of consent for blood donation

Was taken up, read the third time and passed.

Bill Read Second Time; Third Reading Ordered

H. 761

Rep. Branagan of Georgia spoke for the committee on Ways and Means.

House bill entitled

An act relating to executive branch fees, including motor vehicle and fish and wildlife fees

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Sharpe of Bristol** moved to amend the bill as follows:

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

Sec. 2. 26 V.S.A. § 3178a is amended to read:

§ 3178a. FEES

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

(1) Application for agency license:

(A) Investigative agency	~~\$270.00~~ <u>\$340.00</u>
(B) Security agency	~~\$270.00~~ <u>\$340.00</u>
(C) Investigative/security agency	~~\$320.00~~ <u>\$400.00</u>
<u>(D) Sole proprietor</u>	<u>\$250.00</u>

(2) Application for individual license:

(A) Unarmed licensee	~~\$130.00~~ <u>\$150.00</u>
(B) Armed licensee	~~\$180.00~~ <u>\$200.00</u>

(3) Application for employee registration:

(A) Unarmed registrants	~~\$— 50.00~~ <u>\$60.00</u>
(B) Armed registrants	~~\$100.00~~ <u>\$120.00</u>
(C) Transitory permits	~~\$— 50.00~~ <u>\$60.00</u>

(4) Biennial renewal:

(A) Investigative agency	~~\$275.00~~ <u>\$300.00</u>
(B) Security agency	~~\$275.00~~ <u>\$300.00</u>
(C) Investigative/security agency	~~\$275.00~~ <u>\$300.00</u>
(D) Unarmed licensee	~~\$100.00~~ <u>\$120.00</u>
(E) Armed licensee	~~\$150.00~~ <u>\$180.00</u>
(F) Unarmed registrants (agency employees)	\$ 80.00
(G) Armed registrants (agency employees)	\$130.00
<u>(H) Sole proprietor</u>	<u>\$250.00</u>

(5) Instructor licensure:

(A) Application for licensure	~~\$100.00~~ <u>\$120.00</u>
(B) Biennial renewal	~~\$150.00~~ <u>\$180.00</u>

(6) A sole proprietor of an investigative agency or security agency shall ~~be required to apply for agency licensure and renewal but shall not be required to pay the fees for agency licensure or renewal~~ only pay the sole proprietor fees pursuant to this section.

Which was agreed to and third reading of the bill was ordered.

Adjournment

At two o'clock and thirty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Thursday, February 23, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Carl VanOsdall of the First Presbyterian Church, Barre, VT.

Message from the Senate No. 18

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 122. An act relating to human trafficking and prostitution.

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

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 48. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 260. House concurrent resolution honoring the 2011 class of Vermont Boy Scouts awarded the rank of Eagle.

H.C.R. 261. House concurrent resolution in memory of Michael J.

Garofano and Michael G. Garofano.

H.C.R. 262. House concurrent resolution in memory of former Representative Kermit Welch Richardson of Orange.

H.C.R. 263. House concurrent resolution in memory of Stephen Eddy of Rutland.

H.C.R. 264. House concurrent resolution in memory of Sister Elizabeth Candon, RSM (Sr. Mary Patrick).

H.C.R. 265. House concurrent resolution congratulating Tong Chen as Vermont's 2012 Teacher of the Year.

H.C.R. 266. House concurrent resolution proudly commemorating the centennial anniversary of the University of Vermont Extension.

H.C.R. 267. House concurrent resolution congratulating Keegan Bradley on winning the 2011 PGA Championship and the 2011 PGA Grand Slam, and being named the 2011 PGA Tour Rookie of the Year.

H.C.R. 268. House concurrent resolution honoring Swanton town administrator Richard Thompson.

H.C.R. 269. House concurrent resolution designating November 2012 as Chronic Obstructive Pulmonary Disease Awareness Month in Vermont.

H.C.R. 270. House concurrent resolution congratulating the Mt. Ascutney Hospital and Health Center on winning the 2011 Foster G. McGaw Prize for Excellence in Community Service.

H.C.R. 271. House concurrent resolution in memory of Frederick M. Faeth, Jr.

Senate Bill Referred

S. 122

Senate bill, entitled

An act relating to human trafficking and prostitution

Was read and referred to the committee on Judiciary.

Bill Referred to Committee on Appropriations

H. 718

House bill, entitled

An act relating to the department of public service and the public service board

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Adopted in Concurrence

J.R.S. 48

By Senators Carris and Mullin,

J.R.S. 48. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, February 23, 2012, or, Friday, February 24, 2012, it be to meet again no later than Tuesday, February 28, 2012.

Was taken up read and adopted in concurrence.

**Rules Suspended; Bill Amended; Third Reading Ordered;
Rules Suspended; Bill Read Third Time and Passed; Rules Suspended
and Bill was Ordered Messaged to the Senate Forthwith**

H. 365

On motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to designating skiing and snowboarding as the official state sports

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Moran of Wardsboro, for the committee on General, Housing and Military Affairs, reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

In recognition of the importance that sports and fitness can play in the personal lives of Vermonters and in the economic well-being of the state, the general assembly finds:

(1) The history of skiing and snowboarding is heavily linked to Vermont.

(2) In 1934, the country's first ski area opened near Woodstock when the first rope tow ski lift was installed on Clinton Gilbert's farm. This was followed by many other historical Vermont firsts in the ski industry, including the nation's first ski race which was held on Mount Mansfield in 1934, the

nation's first J-bar lift which was installed at Bromley Ski Area in 1936, the nation's first ski patrol which was established at Stowe Ski Area in 1936, the nation's first T-bar lift which was installed at Pico Peak Ski Area in 1940, and the nation's first major chair lift which was installed at the Stowe Ski Area in 1940.

(3) In 1938, C. Minot Dole founded the National Ski Patrol in Vermont. Dole later used the National Ski Patrol model to convince the U.S. Army to activate a division of American mountain soldiers on skis, known as the 10th Mountain Division. Approximately 240 Vermonters served in the famed winter warfare division during World War II, with a dozen killed in action in the battle against the Germans in the Italian Alps.

(4) In 1952, Rutland's Andrea Mead-Lawrence, whose parents ran Pico Mountain, became the first American woman to win two Olympic gold medals in skiing. Stowe's Billy Kidd won the silver medal at the 1964 Innsbruck Olympics and the gold and bronze medals at the 1970 World Championships.

The skiing Cochrans—Barbara Ann, Lindy, Marilyn, and Bobby—from Richmond dominated the world racing scene in the 1960s and 1970s, with Barbara Ann winning the gold medal at the 1972 winter Olympics. Nordic skier Bill Koch, from Brattleboro, skied in four Olympics—1976, 1980, 1984, and 1992. Koch won the 1976 silver medal, a first for an American Nordic skier, a bronze medal in the 1982 Federation Internationale de Ski Nordic World Championships, and a bronze medal in the 1982 World Cup Championships. Most recently, at the 2010 Winter Olympics, Hannah Kearney of Norwich won the gold medal in the women's freestyle skiing event.

(5) Vermont is home to many public schools, academies, and colleges that are world-class training grounds for skiing and snowboarding.

(6) In 1982, the Suicide Six Resort in Pomfret was the first resort in the United States to allow snowboarding.

(7) In the 1980s, Vermont was the first state in the country to host what is now known as a snowboard park at the Sonnenberg Ski Area in Barnard.

(8) The U.S. Open for Snowboarding is held in Vermont. This event is the renowned first competition for snowboarding and offers an exciting opportunity to watch the world's best snowboarders exhibiting their skills.

(9) At the 2002 Winter Olympics, Ross Powers of Stratton and Kelly Clark of Dover won the men's and women's gold medal respectively in the snowboarding halfpipe event.

(10) The United States Olympic Committee named Hannah Teeter of Belmont, the 2006 Winter Olympics women's halfpipe gold medalist, as the 2006 Sportswoman of the Year, the top honor that the committee confers. She returned to the Winter Olympics in 2010 to win a silver medal in the women's halfpipe while Kelly Clark followed immediately behind her in the competition, capturing the bronze medal.

(11) The United States Olympic Committee named former United States Halfpipe Head Coach Bud Keene of Stowe the 2006 National Coach of the Year.

(12) In 1977, Vermonter Jake Burton Carpenter founded a snowboard company in his barn and perfected the technology to build snowboards. Today, this Burlington-based company is the worldwide leader in the manufacture and sale of snowboards. Jake and Donna Burton Carpenter were inducted into the United States National Ski and Snowboarding Hall of Fame in 2007.

(13) Increasingly, there is an alarmingly high number of obese children in the United States. Both skiing and snowboarding promote healthy outdoor exercise for children, their parents, and people of all ages.

(14) Vermont historically ranks as the third largest ski and snowboard state, with over four million snowboarder and skier visits per year, and both sports are a critical part of our state's economy, heritage, and way of life.

(15) Designating skiing and snowboarding as the Vermont state sports will encourage individuals to travel to Vermont to ski and snowboard where they will patronize local hotels and restaurants and purchase Vermont goods and services.

Sec. 2. 1 V.S.A. § 516 is added to read:

§ 516. STATE SPORTS

The state winter sports shall be skiing and snowboarding.

Sec. 3. EFFECTIVE DATE

This bill shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to designating skiing and snowboarding as the official winter state sports"

Thereupon, the bill was read the second time and the report of the committee on General, Housing and Military Affairs agreed to and third reading ordered.

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of **Rep. Savage of Swanton** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Third Reading; Bill Passed

H. 761

House bill, entitled

An act relating to executive branch fees, including motor vehicle and fish and wildlife fees;

Was taken up and read the third time.

Pending the question, Shall the bill pass? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 111. Nays, 30.

Those who voted in the affirmative are:

Acinapura of Brandon	Davis of Washington	Klein of East Montpelier
Ancel of Calais	Devereux of Mount Holly	Krebs of South Hero
Andrews of Rutland City	Donahue of Northfield	Krowinski of Burlington
Aswad of Burlington	Donovan of Burlington	Kupersmith of South
Atkins of Winooski	Edwards of Brattleboro	Burlington
Bartholomew of Hartland	Ellis of Waterbury	Lanpher of Vergennes
Bissonnette of Winooski	Emmons of Springfield	Larocque of Barnet
Bohi of Hartford	Evans of Essex	Lawrence of Lyndon
Botzow of Pownal	Fisher of Lincoln	Lenes of Shelburne
Branagan of Georgia	Frank of Underhill	Lippert of Hinesburg
Brennan of Colchester	French of Shrewsbury	Lorber of Burlington
Browning of Arlington	French of Randolph	Macaig of Williston
Burke of Brattleboro	Gilbert of Fairfax	Malcolm of Pawlet
Buxton of Tunbridge	Grad of Moretown	Manwaring of Wilmington
Campion of Bennington	Greshin of Warren	Marek of Newfane *
Canfield of Fair Haven	Haas of Rochester	Martin of Springfield
Christie of Hartford	Head of South Burlington	Martin of Wolcott
Clarkson of Woodstock	Heath of Westford	Masland of Thetford
Condon of Colchester	Helm of Fair Haven	McCullough of Williston
Conquest of Newbury	Hooper of Montpelier	McFaun of Barre Town
Consejo of Sheldon	Howrigan of Fairfield	McNeil of Rutland Town
Copeland-Hanzas of	Jerman of Essex	Miller of Shaftsbury
Bradford	Jewett of Ripton	Mook of Bennington
Corcoran of Bennington	Johnson of South Hero	Moran of Wardsboro
Courcelle of Rutland City	Johnson of Canaan	Mrowicki of Putney
Crawford of Burke	Keenan of St. Albans City	Munger of South Burlington
Dakin of Chester	Kitzmiller of Montpelier	

Nuovo of Middlebury	Russell of Rutland City	Toll of Danville
O'Brien of Richmond	Shand of Weathersfield	Townsend of Randolph
Olsen of Jamaica	Sharpe of Bristol	Trieber of Rockingham
Partridge of Windham	South of St. Johnsbury	Waite-Simpson of Essex
Pearce of Richford	Spengler of Colchester	Webb of Shelburne
Pearson of Burlington	Stevens of Waterbury	Wilson of Manchester
Peltz of Woodbury	Stevens of Shoreham	Wizowaty of Burlington
Potter of Clarendon	Stuart of Brattleboro	Woodward of Johnson
Pugh of South Burlington	Sweaney of Windsor	Yantachka of Charlotte
Ralston of Middlebury	Taylor of Barre City	Young of Glover
Ram of Burlington	Till of Jericho	Zagar of Barnard

Those who voted in the negative are:

Batchelor of Derby *	Howard of Cambridge	Perley of Enosburgh
Bouchard of Colchester	Hubert of Milton	Poirier of Barre City *
Burditt of West Rutland	Kilmartin of Newport City	Reis of St. Johnsbury *
Clark of Vergennes	Koch of Barre Town	Savage of Swanton
Degree of St. Albans City	Komline of Dorset	Scheuermann of Stowe
Dickinson of St. Albans Town	Lewis of Berlin	Smith of New Haven
Donaghy of Poultney	Lewis of Derby	Strong of Albany *
Fagan of Rutland City	Marcotte of Coventry	Turner of Milton
Hebert of Vernon	McAllister of Highgate	Winters of Williamstown
Higley of Lowell	Myers of Essex	
	Peaslee of Guildhall	

Those members absent with leave of the House and not voting are:

Cheney of Norwich	Morrissey of Bennington	Smith of Morristown
Deen of Westminster	O'Sullivan of Burlington	Wright of Burlington
Eckhardt of Chittenden	Shaw of Pittsford	

Rep. Batchelor of Derby explained her vote as follows:

“Mr. Speaker:

I voted no because I cannot in good conscience vote to raise fees when my constituents are struggling to make ends meet.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

This year’s fee bill funds hundreds of vital services for all Vermonters at an additional weekly cost of just 26 cents per person to meet the increased expenses. That is the real definition of frugal government for frugal people.”

Rep. Poirier of Barre City explained his vote as follows:

“Mr. Speaker:

I voted no because an increase in the hospital provider tax does not meet the requirements of a fee. This tax increase will be reflected in next year's hospital budgets and subsequently in increases in health care insurance premiums.

Also, Mr. Speaker, the Health Committee was bypassed in this process. I find this objectionable and a disregard of the committee process."

Rep. Reis of St. Johnsbury explained his vote as follows:

"Mr. Speaker:

I have been told that this bill is not a tax increase, just an increase in fees. I recall the old adage, 'A rose by any other name smells as sweet' except this bill is not sweet-smelling."

Rep. Strong of Albany explained her vote as follows:

"Mr. Speaker:

On behalf of my constituents who already are struggling to buy groceries, medications and pay their bills, I vote no. We are still in an economic recession and every dollar counts to those I represent. I cannot in good conscience raise their cost of living any further."

Consideration Interrupted by Recess

H. 559

Rep. Fisher of Lincoln, for the committee on Health Care, to which had been referred House bill, entitled

An act relating to health care reform implementation

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

For purposes of this subchapter:

* * *

(5) "Qualified employer" ~~means an employer that:~~

(A) means an entity which employed an average of not more than 50 employees on working days during the preceding calendar year and which:

(i) has its principal place of business in this state and elects to provide coverage for its eligible employees through the Vermont

health benefit exchange, regardless of where an employee resides; or

~~(B)(ii)~~ elects to provide coverage through the Vermont health benefit exchange for all of its eligible employees who are principally employed in this state.

(B) on and after January 1, 2016, shall include an entity which:

(i) employed an average of not more than 100 employees on working days during the preceding calendar year; and

(ii) meets the requirements of subdivisions (A)(i) and (A)(ii) of this subdivision (5).

(C) on and after January 1, 2017, shall include all employers meeting the requirements of subdivisions (A)(i) and (ii) of this subdivision (5), regardless of size.

* * *

Sec. 2. 33 V.S.A. § 1804 is amended to read:

§ 1804. QUALIFIED EMPLOYERS

[Reserved.]

(a)(1) Until January 1, 2016, a qualified employer shall be an employer which, on at least 50 percent of its working days during the preceding calendar quarter, employed at least one and no more than 50 employees, and the term “qualified employer” includes self-employed persons. Calculation of the number of employees of a qualified employer shall not include a part-time employee who works fewer than 30 hours per week.

(2) An employer with 50 or fewer employees that offers a qualified health benefit plan to its employees through the Vermont health benefit exchange may continue to participate in the exchange even if the employer’s size grows beyond 50 employees as long as the employer continuously makes qualified health benefit plans in the Vermont health benefit exchange available to its employees.

(b)(1) From January 1, 2016 until January 1, 2017, a qualified employer shall be an employer which, on at least 50 percent of its working days during the preceding calendar quarter, employed at least one and no more than 100 employees, and the term “qualified employer” includes self-employed persons. Calculation of the number of employees of a qualified employer shall not include a part-time employee who works fewer than 30 hours per week.

(2) An employer with 100 or fewer employees that offers a qualified health benefit plan to its employees through the Vermont health benefit

exchange may continue to participate in the exchange even if the employer's size grows beyond 100 employees as long as the employer continuously makes qualified health benefit plans in the Vermont health exchange available to its employees.

(c) On and after January 1, 2017, a qualified employer shall be an employer of any size which elects to make all of its full-time employees eligible for one or more qualified health plans offered in the Vermont health benefit exchange, and the term "qualified employer" includes self-employed persons. A full-time employee shall be an employee who works more than 30 hours per week.

Sec. 2a. 33 V.S.A. § 1806(b) is amended to read:

(b) A qualified health benefit plan shall provide the following benefits:

(1)(A) The essential benefits package required by Section 1302(a) of the Affordable Care Act and any additional benefits required by the secretary of human services by rule after consultation with the advisory committee established in section 402 of this title and after approval from the Green Mountain Care board established in 18 V.S.A. chapter 220.

(B) Notwithstanding subdivision (1)(A) of this subsection, a health insurer or a stand-alone dental insurer, including a nonprofit dental service corporation, may offer a plan that provides only limited dental benefits, either separately or in conjunction with a qualified health benefit plan, if it meets the requirements of Section 9832(c)(2)(A) of the Internal Revenue Code and provides pediatric dental benefits meeting the requirements of Section 1302(b)(1)(J) of the Affordable Care Act. Said plans may include child-only policies or family policies. If permitted under federal law, a qualified health benefit plan offered in conjunction with a stand-alone dental plan providing pediatric dental benefits meeting the requirements of Section 1302(b)(1)(J) of the Affordable Care Act shall be deemed to meet the requirements of this subsection.

(2) At least the ~~silver~~ bronze level of coverage as defined by Section 1302 of the Affordable Care Act and the cost-sharing limitations for individuals provided in Section 1302 of the Affordable Care Act, as well as any more restrictive cost-sharing requirements specified by the secretary of human services by rule after consultation with the advisory committee established in section 402 of this title and after approval from the Green Mountain Care board established in 18 V.S.A. chapter 220.

* * *

Sec. 2b. 33 V.S.A. § 1807(b) is amended to read:

(b) Navigators shall have the following duties:

* * *

(7) Provide information about and facilitate employers' establishment of cafeteria or premium-only plans under Section 125 of the Internal Revenue Code that allow employees to pay for health insurance premiums with pretax dollars.

Sec. 2c. EXCHANGE OPTIONS

In approving benefit packages for the Vermont health benefit exchange pursuant to 18 V.S.A. § 9375(b)(7), the Green Mountain Care board shall approve a full range of cost-sharing structures for each level of actuarial value. To the extent permitted under federal law, the board shall also allow health insurers to establish rewards, premium discounts, split benefit designs, rebates, or to otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by an insured to programs of health promotion and disease prevention pursuant to 33 V.S.A. § 1811(f)(2)(B).

Sec. 3. 33 V.S.A. § 1811 is added to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

(a) As used in this section:

(1) "Health benefit plan" means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan offered through the Vermont health benefit exchange and issued to an individual or to an employee of a small employer. The term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, or other similar insurance coverage in which benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits; long-term care insurance; specific disease or other limited benefit coverage, Medicare supplemental health benefits, Medicare Advantage plans, and other similar benefits excluded under the Affordable Care Act.

(2) "Registered carrier" means any person, except an insurance agent, broker, appraiser, or adjuster, who issues a health benefit plan and who has a

registration in effect with the commissioner of banking, insurance, securities, and health care administration as required by this section.

(3)(A) Until January 1, 2016, “small employer” means an employer which, on at least 50 percent of its working days during the preceding calendar quarter, employs at least one and no more than 50 employees. The term includes self-employed persons. Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week. An employer may continue to participate in the exchange even if the employer’s size grows beyond 50 employees as long as the employer continuously makes qualified health benefit plans in the Vermont health benefit exchange available to its employees.

(B) Beginning on January 1, 2016, “small employer” means an employer which, on at least 50 percent of its working days during the preceding calendar quarter, employs at least one and no more than 100 employees. The term includes self-employed persons. Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week. An employer may continue to participate in the exchange even if the employer’s size grows beyond 100 employees as long as the employer continuously makes qualified health benefit plans in the Vermont health benefit exchange available to its employees.

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

(c) No person may provide a health benefit plan to an individual or small employer unless such person is a registered carrier. The commissioner of banking, insurance, securities, and health care administration shall establish, by rule, the minimum financial, marketing, service and other requirements for registration. Such registration shall be effective upon approval by the commissioner and shall remain in effect until revoked or suspended by the commissioner for cause or until withdrawn by the carrier. A carrier may withdraw its registration upon at least six months prior written notice to the commissioner. A registration filed with the commissioner shall be deemed to be approved unless it is disapproved by the commissioner within 30 days of filing.

(d) A registered carrier shall guarantee acceptance of all individuals, small employers, and employees of small employers, and each dependent of such individuals and employees, for any health benefit plan offered by the carrier.

(e) A registered carrier shall offer a health benefit plan rate structure which at least differentiates between single person, two person, and family rates.

(f)(1) A registered carrier shall use a community rating method acceptable to the commissioner of banking, insurance, securities, and health care administration for determining premiums for health benefit plans. Except as provided in subdivision (2) of this subsection, the following risk classification factors are prohibited from use in rating individuals, small employers, or employees of small employers, or the dependents of such individuals or employees:

(A) demographic rating, including age and gender rating;

(B) geographic area rating;

(C) industry rating;

(D) medical underwriting and screening;

(E) experience rating;

(F) tier rating; or

(G) durational rating.

(2)(A) The commissioner shall, by rule, adopt standards and a process for permitting registered carriers to use one or more risk classifications in their community rating method, provided that the premium charged shall not deviate above or below the community rate filed by the carrier by more than 20 percent and provided further that the commissioner's rules may not permit any medical underwriting and screening and shall give due consideration to the need for affordability and accessibility of health insurance.

(B) The commissioner's rules shall permit a carrier, including a hospital or medical service corporation and a health maintenance organization, to establish rewards, premium discounts, split benefit designs, rebates, or to otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by a member or subscriber to programs of health promotion and disease prevention. The commissioner shall consult with the commissioner of health, the director of the Blueprint for Health, and the commissioner of Vermont health access in the development of health promotion and disease prevention rules that are consistent with the Blueprint for Health. Such rules shall:

(i) limit any reward, discount, rebate, or waiver or modification of cost-sharing amounts to not more than a total of 15 percent of the cost of the premium for the applicable coverage tier, provided that the sum of any rate

deviations under subdivision (A) of this subdivision (2) does not exceed 30 percent;

(ii) be designed to promote good health or prevent disease for individuals in the program and not be used as a subterfuge for imposing higher costs on an individual based on a health factor;

(iii) provide that the reward under the program is available to all similarly situated individuals and shall comply with the nondiscrimination provisions of the federal Health Insurance Portability and Accountability Act of 1996; and

(iv) provide a reasonable alternative standard to obtain the reward to any individual for whom it is unreasonably difficult due to a medical condition or other reasonable mitigating circumstance to satisfy the otherwise applicable standard for the discount and disclose in all plan materials that describe the discount program the availability of a reasonable alternative standard.

(C) The commissioner's rules shall include:

(i) standards and procedures for health promotion and disease prevention programs based on the best scientific, evidence-based medical practices as recommended by the commissioner of health;

(ii) standards and procedures for evaluating an individual's adherence to programs of health promotion and disease prevention; and

(iii) any other standards and procedures necessary or desirable to carry out the purposes of this subdivision (2).

(D) The commissioner may require a registered carrier to identify that percentage of a requested premium increase which is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall occur at the time a rate increase is sought and shall be in the manner and form directed by the commissioner. Such information shall be made available to the public in a manner that is easy to understand.

(g) A registered carrier shall file with the commissioner an annual certification by a member of the American Academy of Actuaries of the carrier's compliance with this section. The requirements for certification shall be as the commissioner prescribes by rule.

(h) A registered carrier shall provide, on forms prescribed by the commissioner, full disclosure to a small employer of all premium

rates and any risk classification formulas or factors prior to acceptance of a plan by the small employer.

(i) A registered carrier shall guarantee the rates on a health benefit plan for a minimum of 12 months.

(j) The commissioner shall disapprove any rates filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the Patient Protection and Affordable Care Act (Public Law 111-148).

(k) The guaranteed acceptance provision of subsection (d) of this section shall not be construed to limit an employer's discretion in contracting with his or her employees for insurance coverage.

Sec. 4. 8 V.S.A. § 4080g is added to read:

§ 4080g. GRANDFATHERED PLANS

(a) Application. Notwithstanding the provisions of 33 V.S.A. § 1811, on and after January 1, 2014, the provisions of this section shall apply to an individual, small group, or association plan that qualifies as a grandfathered health plan under Section 1251 of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) ("Affordable Care Act").

In the event that a plan no longer qualifies as a grandfathered health plan under the Affordable Care Act, the provisions of this section shall not apply and the provisions of 33 V.S.A. § 1811 shall govern the plan.

(b) Small group plans.

(1) Definitions. As used in this subsection:

(A) "Small employer" means an employer who, on at least 50 percent of its working days during the preceding calendar quarter, employs at least one and no more than 50 employees. The term includes self-employed persons. Calculation of the number of employees of a small employer shall not include a part-time employee who works fewer than 30 hours per week. The provisions of this subsection shall continue to apply until the plan anniversary date following the date that the employer no longer meets the requirements of this subdivision.

(B) "Small group" means:

(i) a small employer; or

(ii) an association, trust, or other group issued a health insurance policy subject to regulation by the commissioner under subdivision 4079(2), (3), or (4) of this title.

(C) "Small group plan" means a group health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan offered or issued to a small group, including but not limited to common health care plans approved by the commissioner under subdivision (5) of this subsection. The term does not include disability insurance policies, accident indemnity or expense policies, long-term care insurance policies, student or athletic expense or indemnity policies, dental policies, policies that supplement the Civilian Health and Medical Program of the Uniformed Services, or Medicare supplemental policies.

(D) "Registered small group carrier" means any person except an insurance agent, broker, appraiser, or adjuster who issues a small group plan and who has a registration in effect with the commissioner as required by this subsection.

(2) No person may provide a small group plan unless the plan complies with the provisions of this subsection.

(3) No person may provide a small group plan unless such person is a registered small group carrier. The commissioner, by rule, shall establish the minimum financial, marketing, service and other requirements for registration. Such registration shall be effective upon approval by the commissioner and shall remain in effect until revoked or suspended by the commissioner for cause or until withdrawn by the carrier. A small group carrier may withdraw its registration upon at least six months prior written notice to the commissioner. A registration filed with the commissioner shall be deemed to be approved unless it is disapproved by the commissioner within 30 days of filing.

(4)(A) A registered small group carrier shall guarantee acceptance of all small groups for any small group plan offered by the carrier. A registered small group carrier shall also guarantee acceptance of all employees or members of a small group and each dependent of such employees or members for any small group plan it offers.

(B) Notwithstanding subdivision (A) of this subdivision (b)(4), a health maintenance organization shall not be required to cover:

(i) a small employer which is not physically located in the health maintenance organization's approved service area; or

(ii) a small employer or an employee or member of the small group located or residing within the health maintenance organization's approved service area for which the health maintenance organization:

(I) is not providing coverage; and

(II) reasonably anticipates and demonstrates to the satisfaction of the commissioner that it will not have the capacity within its network of providers to deliver adequate service because of its existing group contract obligations, including contract obligations subject to the provisions of this subsection and any other group contract obligations.

(5) A registered small group carrier shall offer one or more common health care plans approved by the commissioner. The commissioner, by rule, shall adopt standards and a process for approval of common health care plans that ensure that consumers may compare the costs of plans offered by carriers and that ensure the development of an affordable common health care plan, providing for deductibles, coinsurance arrangements, managed care, cost containment provisions, and any other term, not inconsistent with the provisions of this title, deemed useful in making the plan affordable. A health maintenance organization may add limitations to a common health care plan if the commissioner finds that the limitations do not unreasonably restrict the insured from access to the benefits covered by the plans.

(6) A registered small group carrier shall offer a small group plan rate structure which at least differentiates between single-person, two-person and family rates.

(7)(A) A registered small group carrier shall use a community rating method acceptable to the commissioner for determining premiums for small group plans. Except as provided in subdivision (B) of this subdivision (7), the following risk classification factors are prohibited from use in rating small groups, employees or members of such groups, and dependents of such employees or members:

(i) demographic rating, including age and gender rating;

(ii) geographic area rating;

(iii) industry rating;

(iv) medical underwriting and screening;

(v) experience rating;

(vi) tier rating; or

(vii) durational rating.

(B)(i) The commissioner shall, by rule, adopt standards and a process for permitting registered small group carriers to use one or more risk classifications in their community rating method, provided that the premium charged shall not deviate above or below the community rate filed by the carrier by more than 20 percent and provided further that the commissioner's rules may not permit any medical underwriting and screening.

(ii) The commissioner's rules shall permit a carrier, including a hospital or medical service corporation and a health maintenance organization, to establish rewards, premium discounts, split benefit designs, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by a member or subscriber to programs of health promotion and disease prevention. The commissioner shall consult with the commissioner of health, the director of the Blueprint for Health, and the commissioner of Vermont health access in the development of health promotion and disease prevention rules that are consistent with the Blueprint for Health. Such rules shall:

(I) limit any reward, discount, rebate, or waiver or modification of cost-sharing amounts to not more than a total of 15 percent of the cost of the premium for the applicable coverage tier, provided that the sum of any rate deviations under subdivision (i) of this subdivision (7)(B) does not exceed 30 percent;

(II) be designed to promote good health or prevent disease for individuals in the program and not be used as a subterfuge for imposing higher costs on an individual based on a health factor;

(III) provide that the reward under the program is available to all similarly situated individuals and complies with the nondiscrimination provisions of the federal Health Insurance Portability and Accountability Act of 1996; and

(IV) provide a reasonable alternative standard to obtain the reward to any individual for whom it is unreasonably difficult due to a medical condition or other reasonable mitigating circumstance to satisfy the otherwise applicable standard for the discount and disclose in all plan materials that describe the discount program the availability of a reasonable alternative standard.

(iii) The commissioner's rules shall include:

(I) standards and procedures for health promotion and disease prevention programs based on the best scientific, evidence-based medical practices as recommended by the commissioner of health;

(II) standards and procedures for evaluating an individual's adherence to programs of health promotion and disease prevention; and

(III) any other standards and procedures necessary or desirable to carry out the purposes of this subdivision (7)(B).

(C) The commissioner may require a registered small group carrier to identify that percentage of a requested premium increase which is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall occur at the time a rate increase is sought and shall be in the manner and form as directed by the commissioner. Such information shall be made available to the public in a manner that is easy to understand.

(D) The commissioner may exempt from the requirements of this subsection an association as defined in subdivision 4079(2) of this title which:

(i) offers a small group plan to a member small employer which is community rated in accordance with the provisions of subdivisions (A) and (B) of this subdivision (b)(7). The plan may include risk classifications in accordance with subdivision (B) of this subdivision (7);

(ii) offers a small group plan that guarantees acceptance of all persons within the association and their dependents; and

(iii) offers one or more of the common health care plans approved by the commissioner under subdivision (5) of this subsection.

(E) The commissioner may revoke or deny the exemption set forth in subdivision (D) of this subdivision (7) if the commissioner determines that:

(i) because of the nature, size, or other characteristics of the association and its members, the employees or members are in need of the protections provided by this subsection; or

(ii) the association exemption has or would have a substantial adverse effect on the small group market.

(8) A registered small group carrier shall file with the commissioner an annual certification by a member of the American Academy of Actuaries of the carrier's compliance with this subsection. The requirements for certification shall be as the commissioner by rule prescribes.

(9) A registered small group carrier shall provide, on forms prescribed by the commissioner, full disclosure to a small group of all premium rates and

any risk classification formulas or factors prior to acceptance of a small group plan by the group.

(10) A registered small group carrier shall guarantee the rates on a small group plan for a minimum of six months.

(11)(A) A registered small group carrier may require that 75 percent or less of the employees or members of a small group with more than 10 employees participate in the carrier's plan. A registered small group carrier may require that 50 percent or less of the employees or members of a small group with 10 or fewer employees or members participate in the carrier's plan. A small group carrier's rules established pursuant to this subdivision shall be applied to all small groups participating in the carrier's plans in a consistent and nondiscriminatory manner.

(B) For purposes of the requirements set forth in subdivision (A) of this subdivision (11), a registered small group carrier shall not include in its calculation an employee or member who is already covered by another group health benefit plan as a spouse or dependent or who is enrolled in Catamount Health, Medicaid, the Vermont health access plan, or Medicare. Employees or members of a small group who are enrolled in the employer's plan and receiving premium assistance under 33 V.S.A. chapter 19 shall be considered to be participating in the plan for purposes of this subsection. If the small group is an association, trust, or other substantially similar group, the participation requirements shall be calculated on an employer-by-employer basis.

(C) A small group carrier may not require recertification of compliance with the participation requirements set forth in this subdivision (11) more often than annually at the time of renewal. If, during the recertification process, a small group is found not to be in compliance with the participation requirements, the small group shall have 120 days to become compliant prior to termination of the plan.

(12) This subsection shall apply to the provisions of small group plans. This subsection shall not be construed to prevent any person from issuing or obtaining a bona fide individual health insurance policy; provided that no person may offer a health benefit plan or insurance policy to individual employees or members of a small group as a means of circumventing the requirements of this subsection. The commissioner shall adopt, by rule, standards and a process to carry out the provisions of this subsection.

(13) The guaranteed acceptance provision of subdivision (4) of this subsection shall not be construed to limit an employer's discretion in

contracting with his or her employees for insurance coverage.

(14) Registered small group carriers, except nonprofit medical and hospital service organizations and nonprofit health maintenance organizations, shall form a reinsurance pool for the purpose of reinsuring small group risks. This pool shall not become operative until the commissioner has approved a plan of operation. The commissioner shall not approve any plan which he or she determines may be inconsistent with any other provision of this subsection. Failure or delay in the formation of a reinsurance pool under this subsection shall not delay implementation of this subdivision. The participants in the plan of operation of the pool shall guarantee, without limitation, the solvency of the pool, and such guarantee shall constitute a permanent financial obligation of each participant, on a pro rata basis.

(c) Nongroup health benefit plans.

(1) Definitions. As used in this subsection:

(A) "Individual" means a person who is not eligible for coverage by group health insurance as defined by section 4079 of this title.

(B) "Nongroup plan" means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan offered or issued to an individual, including but not limited to common health care plans approved by the commissioner under subdivision (5) of this subsection. The term does not include disability insurance policies, accident indemnity or expense policies, long-term care insurance policies, student or athletic expense or indemnity policies, Medicare supplemental policies, and dental policies. The term also does not include hospital indemnity policies or specified disease indemnity or expense policies, provided such policies are sold only as supplemental coverage when a common health care plan or other comprehensive health care policy is in effect.

(C) "Registered nongroup carrier" means any person, except an insurance agent, broker, appraiser, or adjuster, who issues a nongroup plan and who has a registration in effect with the commissioner as required by this subsection.

(2) No person may provide a nongroup plan unless the plan complies with the provisions of this subsection.

(3) No person may provide a nongroup plan unless such person is a registered nongroup carrier. The commissioner, by rule, shall establish the minimum financial, marketing, service, and other requirements for registration. Registration under this subsection shall be effective upon approval by the

commissioner and shall remain in effect until revoked or suspended by the commissioner for cause or until withdrawn by the carrier. A nongroup carrier may withdraw its registration upon at least six months' prior written notice to the commissioner. A registration filed with the commissioner shall be deemed to be approved unless it is disapproved by the commissioner within 30 days of filing.

(4)(A) A registered nongroup carrier shall guarantee acceptance of any individual for any nongroup plan offered by the carrier. A registered nongroup carrier shall also guarantee acceptance of each dependent of such individual for any nongroup plan it offers.

(B) Notwithstanding subdivision (A) of this subdivision, a health maintenance organization shall not be required to cover:

(i) an individual who is not physically located in the health maintenance organization's approved service area; or

(ii) an individual residing within the health maintenance organization's approved service area for which the health maintenance organization:

(I) is not providing coverage; and

(II) reasonably anticipates and demonstrates to the satisfaction of the commissioner that it will not have the capacity within its network of providers to deliver adequate service because of its existing contract obligations, including contract obligations subject to the provisions of this subsection and any other group contract obligations.

(5) A registered nongroup carrier shall offer two or more common health care plans approved by the commissioner. The commissioner, by rule, shall adopt standards and a process for approval of common health care plans that ensure that consumers may compare the cost of plans offered by carriers. At least one plan shall be a low-cost common health care plan that may provide for deductibles, coinsurance arrangements, managed care, cost-containment provisions, and any other term not inconsistent with the provisions of this title that are deemed useful in making the plan affordable.

A health maintenance organization may add limitations to a common health care plan if the commissioner finds that the limitations do not unreasonably restrict the insured from access to the benefits covered by the plan.

(6) A registered nongroup carrier shall offer a nongroup plan rate structure which at least differentiates between single-person, two-person and family rates.

(7) For a 12-month period from the effective date of coverage, a registered nongroup carrier may limit coverage of preexisting conditions which exist during the 12-month period before the effective date of coverage; provided that a registered nongroup carrier shall waive any preexisting condition provisions for all individuals and their dependents who produce evidence of continuous health benefit coverage during the previous nine months substantially equivalent to the carrier's common health care plan approved by the commissioner. If an individual has a preexisting condition excluded under a subsequent policy, such exclusion shall not continue longer than the period required under the original contract or 12 months, whichever is less. Credit shall be given for prior coverage that occurred without a break in coverage of 63 days or more. For an eligible individual as such term is defined in Section 2741 of Title XXVII of the Public Health Service Act, a registered nongroup carrier shall not limit coverage of preexisting conditions.

(8)(A) A registered nongroup carrier shall use a community rating method acceptable to the commissioner for determining premiums for nongroup plans. Except as provided in subdivision (B) of this subsection, the following risk classification factors are prohibited from use in rating individuals and their dependents:

- (i) demographic rating, including age and gender rating;
- (ii) geographic area rating;
- (iii) industry rating;
- (iv) medical underwriting and screening;
- (v) experience rating;
- (vi) tier rating; or
- (vii) durational rating.

(B)(i) The commissioner shall, by rule, adopt standards and a process for permitting registered nongroup carriers to use one or more risk classifications in their community rating method, provided that the premium charged shall not deviate above or below the community rate filed by the carrier by more than 20 percent and provided further that the commissioner's rules may not permit any medical underwriting and screening and shall give due consideration to the need for affordability and accessibility of health insurance.

(ii) The commissioner's rules shall permit a carrier, including a hospital or medical service corporation and a health maintenance organization, to establish rewards, premium discounts, and rebates or to otherwise waive or

modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by a member or subscriber to programs of health promotion and disease prevention. The commissioner shall consult with the commissioner of health and the commissioner of Vermont health access in the development of health promotion and disease prevention rules. Such rules shall:

(I) limit any reward, discount, rebate, or waiver or modification of cost-sharing amounts to not more than a total of 15 percent of the cost of the premium for the applicable coverage tier, provided that the sum of any rate deviations under subdivision (B)(i) of this subdivision (8) does not exceed 30 percent;

(II) be designed to promote good health or prevent disease for individuals in the program and not be used as a subterfuge for imposing higher costs on an individual based on a health factor;

(III) provide that the reward under the program is available to all similarly situated individuals; and

(IV) provide a reasonable alternative standard to obtain the reward to any individual for whom it is unreasonably difficult due to a medical condition or other reasonable mitigating circumstance to satisfy the otherwise applicable standard for the discount and disclose in all plan materials that describe the discount program the availability of a reasonable alternative standard.

(iii) The commissioner's rules shall include:

(I) standards and procedures for health promotion and disease prevention programs based on the best scientific, evidence-based medical practices as recommended by the commissioner of health;

(II) standards and procedures for evaluating an individual's adherence to programs of health promotion and disease prevention; and

(III) any other standards and procedures necessary or desirable to carry out the purposes of this subdivision (8)(B).

(iv) The commissioner may require a registered nongroup carrier to identify that percentage of a requested premium increase which is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall occur at the time a rate increase is sought and shall be in the manner and form directed by

the commissioner. Such information shall be made available to the public in a manner that is easy to understand.

(9) Notwithstanding subdivision (8)(B) of this subsection, the commissioner shall not grant rate increases, including increases for medical inflation, for individuals covered pursuant to the provisions of this subsection that exceed 20 percent in any one year; provided that the commissioner may grant an increase that exceeds 20 percent if the commissioner determines that the 20 percent limitation will have a substantial adverse effect on the financial safety and soundness of the insurer. In the event that this limitation prevents implementation of community rating to the full extent provided for in subdivision (8) of this subsection, the commissioner may permit insurers to correspondingly limit community rating provisions from applying to individuals who would otherwise be entitled to rate reductions.

(10) A registered nongroup carrier shall file with the commissioner an annual certification by a member of the American Academy of Actuaries of the carrier's compliance with this subsection. The requirements for certification shall be as the commissioner by rule prescribes.

(11) A registered nongroup carrier shall guarantee the rates on a nongroup plan for a minimum of 12 months.

(12) Registered nongroup carriers, except nonprofit medical and hospital service organizations and nonprofit health maintenance organizations, shall form a reinsurance pool for the purpose of reinsuring nongroup risks. This pool shall not become operative until the commissioner has approved a plan of operation. The commissioner shall not approve any plan which he or she determines may be inconsistent with any other provision of this subsection. Failure or delay in the formation of a reinsurance pool under this subsection shall not delay implementation of this subdivision. The participants in the plan of operation of the pool shall guarantee, without limitation, the solvency of the pool, and such guarantee shall constitute a permanent financial obligation of each participant, on a pro rata basis.

(13) The commissioner shall disapprove any rates filed by any registered nongroup carrier, whether initial or revised, for nongroup insurance policies unless the anticipated loss ratios for the entire period for which rates are computed are at least 70 percent. For the purpose of this subdivision, "anticipated loss ratio" shall mean a comparison of earned premiums to losses incurred plus a factor for industry trend where the methodology for calculating trend shall be determined by the commissioner by rule.

* * * Green Mountain Care Board * * *

Sec. 5. 18 V.S.A. § 9374 is amended to read:

§ 9374. BOARD MEMBERSHIP; AUTHORITY

* * *

(g) The chair of the board or designee may apply for grant funding, if available, to advance or support any responsibility within the board's jurisdiction.

(h)(1) Expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the board shall be borne as follows:

(A) 40 percent by the state from state monies;

(B) 15 percent by the hospitals;

(C) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

(D) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101; and

(E) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

(i) In addition to any other penalties and in order to enforce the provisions of this chapter and empower the board to perform its duties, the chair of the board may issue subpoenas, examine persons, administer oaths, and require production of papers and records. Any subpoena or notice to produce may be served by registered or certified mail or in person by an agent of the chair. Service by registered or certified mail shall be effective three business days after mailing. Any subpoena or notice to produce shall provide at least six business days' time from service within which to comply, except that the chair may shorten the time for compliance for good cause shown. Any subpoena or notice to produce sent by registered or certified mail, postage prepaid, shall constitute service on the person to whom it is addressed. Each witness who appears before the chair under subpoena shall receive a fee and mileage as provided for witnesses in civil cases in superior courts; provided,

however, any person subject to the board's authority shall not be eligible to receive fees or mileage under this section.

(1) A person who fails or refuses to appear, to testify, or to produce papers or records for examination before the chair upon properly being ordered to do so may be assessed an administrative penalty by the chair of not more than \$2,000.00 for each day of noncompliance and proceeded against as provided in the Administrative Procedure Act, and the chair may recommend to the appropriate licensing entity that the person's authority to do business be suspended for up to six months.

(2) If an appeal or other petition for judicial review of a final order is not filed in connection with an order of the Green Mountain Care board under section 9381(b) of this chapter, the chair may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

Sec. 5a. BILL-BACK REPORT

No later than February 1, 2013, the department of banking, insurance, securities, and health care administration and the Green Mountain Care board shall report to the house committees on health care and on ways and means and the senate committees on health and welfare and on finance regarding the allocation of expenses among hospitals and health insurers to finance the department's and the board's regulatory activities pursuant to 18 V.S.A. §§ 9374(h) and 9415. The report shall address the basis for the formula and how it is applied and shall contain the department's and the board's recommendations for alternate expense allocation formulas or models.

* * * Unified Health Care Budget * * *

Sec. 6. 18 V.S.A. § 9373 is amended to read:

§ 9373. DEFINITIONS

* * *

(14) "Unified health care budget" means the budget established in accordance with section 9375a of this title.

(15) "Wellness services" means health services, programs, or activities that focus on the promotion or maintenance of good health.

Sec. 7. 18 V.S.A. § 9402 is amended to read:

§ 9402. DEFINITIONS

* * *

(15) ~~“Unified health care budget” means the budget established in accordance with section 9406 of this title. [Deleted.]~~

* * *

Sec. 8. 18 V.S.A. § 9403 is amended to read:

§ 9403. DIVISION OF HEALTH CARE ADMINISTRATION; PURPOSES

The division of health care administration is created in the department of banking, insurance, securities, and health care administration. The division shall assist the commissioner in carrying out the policies of the state regarding health care delivery, cost, and quality; by providing oversight of health care quality and expenditures through the ~~certificate of need program and the unified health care budget for the state or with respect to Vermont residents,~~ establishment and maintenance of consumer protection functions; and oversight of quality assurance within the health care system. The division shall also establish and maintain a data base with information needed to carry out the commissioner's duties and obligations under this chapter and Title 8.

Sec. 9. 18 V.S.A. § 9405(b) is amended to read:

(b) On or before July 1, 2005, the commissioner, in consultation with the secretary of human services, shall submit to the governor a four-year health resource allocation plan. The plan shall identify Vermont needs in health care services, programs, and facilities; the resources available to meet those needs; and the priorities for addressing those needs on a statewide basis.

(1) The plan shall include:

* * *

(C) Consistent with the principles set forth in subdivision (A) of this subdivision (1), recommendations for the appropriate supply and distribution of resources, programs, and services identified in subdivision (B) of this subdivision (1), options for implementing such recommendations and mechanisms which will encourage the appropriate integration of these services on a local or regional basis. To arrive at such recommendations, the commissioner shall consider at least the following factors: the values and goals reflected in the state health plan; the needs of the population on a statewide basis; the needs of particular geographic areas of the state, as identified in the state health plan; the needs of uninsured and underinsured populations; the use of Vermont facilities by out-of-state residents; the use of out-of-state facilities by Vermont residents; the needs of populations with special health care needs; the desirability of providing high quality services in an economical and efficient manner, including the appropriate use of midlevel

practitioners; the cost impact of these resource requirements on health care expenditures; the services appropriate for the four categories of hospitals described in subdivision 9402(12) of this title; the overall quality and use of health care services as reported by the Vermont program for quality in health care and the Vermont ethics network; the overall quality and cost of services as reported in the annual hospital community reports; individual hospital four-year capital budget projections; ~~the unified health care budget~~; and the four-year projection of health care expenditures prepared by the division.

* * *

Sec. 10. 18 V.S.A. § 9406 is amended to read:

~~§ 9406. EXPENDITURE ANALYSIS; UNIFIED HEALTH CARE BUDGET~~

~~(a) Annually, the commissioner shall develop a unified health care budget and develop an expenditure analysis to promote the policies set forth in section 9401 of this title.~~

~~(1) The budget shall:~~

~~(A) Serve as a guideline within which health care costs are controlled, resources directed, and quality and access assured.~~

~~(B) Identify the total amount of money that has been and is projected to be expended annually for all health care services provided by health care facilities and providers in Vermont, and for all health care services provided to residents of this state.~~

~~(C) Identify any inconsistencies with the state health plan and the health resource allocation plan.~~

~~(D) Analyze health care costs and the impact of the budget on those who receive, provide, and pay for health care services.~~

~~(2) The commissioner shall enter into discussions with health care facilities and with health care provider bargaining groups created under section 9409 of this title concerning matters related to the unified health care budget.~~

~~(b)(1) Annually the division shall prepare a three-year projection of health care expenditures made on behalf of Vermont residents, based on the format of the health care budget and expenditure analysis adopted by the commissioner under this section, projecting expenditures in broad sectors such as hospital, physician, home health, or pharmacy. The projection shall include estimates for:~~

~~(A) expenditures for the health plans of any hospital and medical service corporation, health maintenance organizations, Medicaid program, or~~

~~other health plan regulated by this state which covers more than five percent of the state population; and~~

~~(B) expenditures for Medicare, all self-insured employers, and all other health insurance.~~

~~(2) Each health plan payer identified under subdivision (1)(A) of this subsection may comment on the division's proposed projections, including comments concerning whether the plan agrees with the proposed projection, alternative projections developed by the plan, and a description of what mechanisms, if any, the plan has identified to reduce its health care expenditures. Comments may also include a comparison of the plan's actual expenditures with the applicable projections for the prior year, and an evaluation of the efficacy of any cost containment efforts the plan has made.~~

~~(3) The division's projections prepared under this subsection shall be used as a tool in the evaluation of health insurance rate and trend filings with the department and shall be made available in connection with the hospital budget review process under subchapter 7 of this chapter, the certificate of need process under subchapter 5 of this chapter, and the development of the health resource allocation plan.~~

~~(4) The division shall prepare a report of the final projections made under this subsection, and file the report with the general assembly on or before January 15 of each year. [Repealed.]~~

Sec. 11. 18 V.S.A. 9375a is added to read:

§ 9375a. EXPENDITURE ANALYSIS; UNIFIED HEALTH CARE BUDGET

(a) Annually, the board shall develop a unified health care budget and develop an expenditure analysis to promote the policies set forth in sections 9371 and 9372 of this title.

(1) The budget shall:

(A) Serve as a guideline within which health care costs are controlled, resources directed, and quality and access assured.

(B) Identify the total amount of money that has been and is projected to be expended annually for all health care services provided by health care facilities and providers in Vermont and for all health care services provided to residents of this state.

(C) Identify any inconsistencies with the state health plan and the health resource allocation plan.

(D) Analyze health care costs and the impact of the budget on those who receive, provide, and pay for health care services.

(2) The board shall enter into discussions with health care facilities and with health care provider bargaining groups created under section 9409 of this title concerning matters related to the unified health care budget.

(b)(1) Annually the board shall prepare a three-year projection of health care expenditures made on behalf of Vermont residents, based on the format of the health care budget and expenditure analysis adopted by the board under this section, projecting expenditures in broad sectors such as hospital, physician, home health, or pharmacy. The projection shall include estimates for:

(A) expenditures for the health plans of any hospital and medical service corporation, health maintenance organization, Medicaid program, or other health plan regulated by this state which covers more than five percent of the state population; and

(B) expenditures for Medicare, all self-insured employers, and all other health insurance.

(2) Each health plan payer identified under subdivision (1)(A) of this subsection may comment on the board's proposed projections, including comments concerning whether the plan agrees with the proposed projection, alternative projections developed by the plan, and a description of what mechanisms, if any, the plan has identified to reduce its health care expenditures. Comments may also include a comparison of the plan's actual expenditures with the applicable projections for the prior year and an evaluation of the efficacy of any cost containment efforts the plan has made.

(3) The board's projections prepared under this subsection shall be used as a tool in the evaluation of health insurance rate and trend filings with the department of banking, insurance, securities, and health care administration, and shall be made available in connection with the hospital budget review process under subchapter 7 of this chapter, the certificate of need process under subchapter 5 of this chapter, and the development of the health resource allocation plan.

(4) The board shall prepare a report of the final projections made under this subsection and file the report with the general assembly on or before January 15 of each year.

* * * Claims Edit Standards * * *

Sec. 11a. 18 V.S.A. § 9418a is amended to read:

§ 9418a. PROCESSING CLAIMS, DOWNCODING, AND ADHERENCE
TO CODING RULES

(a) Health plans, contracting entities, covered entities, and payers shall accept and initiate the processing of all health care claims submitted by a health care provider pursuant to and consistent with the current version of the American Medical Association's Current Procedural Terminology (CPT) codes, reporting guidelines, and conventions; the Centers for Medicare and Medicaid Services Healthcare Common Procedure Coding System (HCPCS); American Society of Anesthesiologists; the National Correct Coding Initiative (NCCI); the National Council for Prescription Drug Programs coding; or other appropriate nationally recognized standards, guidelines, or conventions approved by the commissioner.

(b) When editing claims, health plans, contracting entities, covered entities, and payers shall adhere to edit standards ~~that are no more restrictive than the following~~, except as provided in subsection (c) of this section:

(1) The CPT, HCPCS, and NCCI;

(2) National specialty society edit standards; or

(3) Other appropriate nationally recognized edit standards, guidelines, or conventions approved by the commissioner.

(c) Adherence to the edit standards in subdivision (b)(1) or (2) of this section is not required:

(1) When necessary to comply with state or federal laws, rules, regulations, or coverage mandates; or

(2) ~~For services not addressed by NCCI standards or national specialty society edit standards~~ edits that the payer determines are more favorable to providers than the edit standards in subdivisions (b)(1) through (3) of this section or to address new codes not yet incorporated by a payer's edit management software, provided the edit standards are developed with input from the relevant Vermont provider community and national provider organizations and provided the edits are available to providers on the plan's websites and in their newsletters.

(d) Nothing in this section shall preclude a health plan, contracting entity, covered entity, or payer from determining that any such claim is not eligible for payment in full or in part, based on a determination that:

(1) The claim is contested as defined in subdivision 9418(a)(2) of this title;

(2) The service provided is not a covered benefit under the contract, including a determination that such service is not medically necessary or is experimental or investigational;

(3) The insured did not obtain a referral, prior authorization, or precertification, or satisfy any other condition precedent to receiving covered benefits from the health care provider;

(4) The covered benefit exceeds the benefit limits of the contract;

(5) The person is not eligible for coverage or is otherwise not compliant with the terms and conditions of his or her coverage agreement;

(6) The health plan has a reasonable belief that fraud or other intentional misconduct has occurred; or

(7) The health plan, contracting entity, covered entity, or payer determines through coordination of benefits that another entity is liable for the claim.

(e) Nothing in this section shall be deemed to require a health plan, contracting entity, covered entity, or payer to pay or reimburse a claim, in full or in part, or to dictate the amount of a claim to be paid by a health plan, contracting entity, covered entity, or payer to a health care provider.

(f) No health plan, contracting entity, covered entity, or payer shall automatically reassign or reduce the code level of evaluation and management codes billed for covered services (downcoding), except that a health plan, contracting entity, covered entity, or payer may reassign a new patient visit code to an established patient visit code based solely on CPT codes, CPT guidelines, and CPT conventions.

(g) Notwithstanding the provisions of subsection (d) of this section, and other than the edits contained in the conventions in subsections (a) and (b) of this section, health plans, contracting entities, covered entities, and payers shall continue to have the right to deny, pend, or adjust claims for services on other bases and shall have the right to reassign or reduce the code level for selected claims for services based on a review of the clinical information provided at the time the service was rendered for the particular claim or a review of the information derived from a health plan's fraud or abuse billing detection programs that create a reasonable belief of fraudulent or abusive billing practices, provided that the decision to reassign or reduce is based primarily on a review of clinical information.

(h) Every health plan, contracting entity, covered entity, and payer shall publish on its provider website and in its provider newsletter if applicable:

(1) The name of any commercially available claims editing software product that the health plan, contracting entity, covered entity, or payer utilizes;

(2) The standard or standards, pursuant to subsection (b) of this section, that the entity uses for claim edits;

(3) The payment percentages for modifiers; and

(4) Any significant edits, as determined by the health plan, contracting entity, covered entity, or payer, added to the claims software product after the effective date of this section, which are made at the request of the health plan, contracting entity, covered entity, or payer.

(i) Upon written request, the health plan, contracting entity, covered entity, or payer shall also directly provide the information in subsection (h) of this section to a health care provider who is a participating member in the health plan's, contracting entity's, covered entity's, or payer's provider network.

(j) For purposes of this section, "health plan" includes a workers' compensation policy of a casualty insurer licensed to do business in Vermont.

(k) ~~Prior to the effective date of subsections (b) and (c) of this section, MVP Healthcare is requested to convene~~ Blue Cross and Blue Shield of Vermont and the Vermont Medical Society are requested to continue convening a work group consisting of health plans, health care providers, state agencies, and other interested parties to study the edit standards in subsection (b) of this section, the edit standards in national class action settlements, and edit standards and edit transparency standards established by other states to determine the most appropriate way to ensure that health care providers can access information about the edit standards applicable to the health care services they provide. ~~No later than January 1, 2012, the~~ The work group is requested to ~~report its findings and recommendations, including any recommendations for legislative changes to subsections (b) and (c) of this section,~~ provide an annual progress report to the house committee on health care and the senate ~~committee~~ committees on health and welfare and on finance.

(l) With respect to the work group established under subsection (k) of this section and to the extent required to avoid violations of federal antitrust laws, the department shall facilitate and supervise the participation of members of the work group.

* * * Certificate of Need * * *

Sec. 12. 18 V.S.A. § 9375(b) is amended to read:

(b) The board shall have the following duties:

(1) Oversee the development and implementation, and evaluate the effectiveness, of health care payment and delivery system reforms designed to control the rate of growth in health care costs and maintain health care quality in Vermont, including ensuring that the payment reform pilot projects set forth in this chapter 13, subchapter 2 of this title are consistent with such reforms.

* * *

~~(6) Review and approve recommendations from the commissioner of banking, insurance, securities, and health care administration, within 10 business days. Approve or disapprove requests for health insurance rates increases pursuant to 8 V.S.A. § 4062 within 30 days of receipt of such recommendations and a request for approval from the commissioner of banking, insurance, securities, and health care administration, taking into consideration the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, and other issues at the discretion of the board, on:~~

~~(A) any insurance rate increases pursuant to 8 V.S.A. chapter 107, beginning January 1, 2012;~~

~~(B)(7) Review and establish hospital budgets pursuant to chapter 221, subchapter 7 of this title, beginning July 1, 2012; and~~

~~(C)(8) Review and approve, approve with conditions, or deny applications for certificates of need pursuant to chapter 221, subchapter 5 of this title, beginning July 1, 2012~~ January 1, 2013.

~~(7)(9)~~ Prior to the adoption of rules, review and approve, with recommendations from the commissioner of Vermont health access, the benefit package or packages for qualified health benefit plans pursuant to 33 V.S.A. chapter 18, subchapter 1 no later than January 1, 2013. The board shall report to the house committee on health care and the senate committee on health and welfare within 15 days following its approval of the initial benefit package and any subsequent substantive changes to the benefit package.

~~(8)(10)~~ Develop and maintain a method for evaluating systemwide performance and quality, including identification of the appropriate process and outcome measures:

* * *

(11) Develop the unified health care budget pursuant to section 9375a of this title.

Sec. 13. 18 V.S.A. § 9402 is amended to read:

§ 9402. DEFINITIONS

As used in this chapter, unless otherwise indicated:

* * *

(5) “Expenditure analysis” means the expenditure analysis developed pursuant to section ~~9406~~ 9375a of this title.

(6) “Health care facility” means all institutions, whether public or private, proprietary or nonprofit, which offer diagnosis, treatment, inpatient, or ambulatory care to two or more unrelated persons, and the buildings in which those services are offered. The term shall not apply to any facility operated by religious groups relying solely on spiritual means through prayer or healing, but includes all institutions included in subdivision ~~9432(10)~~ 9432(8) of this title, except health maintenance organizations.

* * *

(10) “Health resource allocation plan” means the plan adopted by the commissioner of banking, insurance, securities, and health care administration under section 9405 of this title.

* * *

(15) “Unified health care budget” means the budget established in accordance with section ~~9406~~ 9375a of this title.

(16) “State health plan” means the plan developed under section 9405 of this title.

(17) “Green Mountain Care board” or “board” means the Green Mountain Care board established in chapter 220 of this title.

Sec. 14. 18 V.S.A. § 9412 is amended to read:

§ 9412. ENFORCEMENT

(a) In order to carry out the duties under this chapter, ~~the commissioner~~, in addition to the powers provided in this chapter, in chapter 220 of this title, and in Title 8, the commissioner and the board may examine the books, accounts, and papers of health insurers, health care providers, health care facilities, health plans, contracting entities, covered entities, and payers, as defined in section 9418 of this title, and may administer oaths and may issue subpoenas to a person to appear and testify or to produce documents or things.

* * *

Sec. 14a. 18 V.S.A. § 9431(b) is amended to read:

(b) In order to carry out the policy goals of this subchapter, the ~~department~~ board shall adopt by rule by ~~October 1, 2005~~ January 1, 2013, certificate of need procedural guidelines to assist in its decision-making. The guidelines shall be consistent with the state health plan and the health resource allocation plan.

Sec. 15. 18 V.S.A. § 9433 is amended to read:

§ 9433. ADMINISTRATION

(a) The ~~commissioner~~ board shall exercise such duties and powers as shall be necessary for the implementation of the certificate of need program as provided by and consistent with this subchapter. The ~~commissioner~~ board shall issue or deny certificatesl of need.

(b) The ~~commissioner~~ board may adopt rules governing the review of certificate of need applications consistent with and necessary to the proper administration of this subchapter. All rules shall be adopted pursuant to 3 V.S.A. chapter 25 of Title 3.

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

(d) The ~~commissioner~~ board shall administer the certificate of need program.

Sec. 16. 18 V.S.A. § 9434 is amended to read:

§ 9434. CERTIFICATE OF NEED; GENERAL RULES

(a) A health care facility other than a hospital shall not develop, or have developed on its behalf a new health care project without issuance of a certificate of need by the ~~commissioner~~ board. For purposes of this subsection, a "new health care project" includes the following:

* * *

(3) The offering of any home health service, or the transfer or conveyance of more than a 50 percent ownership interest ~~of a home health agency in a health care facility other than a hospital~~.

(4) The purchase, lease, or other comparable arrangement of a single piece of diagnostic and therapeutic equipment for which the cost, or in the case of a donation the value, is in excess of \$1,000,000.00. For purposes of this subdivision, the purchase or lease of one or more articles of diagnostic or

therapeutic equipment which are necessarily interdependent in the performance of their ordinary functions or which would constitute any health care facility included under subdivision ~~9432(7)(B)~~9432(8)(B) of this title, as determined by the ~~commissioner~~ board, shall be considered together in calculating the amount of an expenditure. The ~~commissioner's~~ board's determination of functional interdependence of items of equipment under this subdivision shall have the effect of a final decision and is subject to appeal under ~~this subchapter~~ section 9381 of this title.

* * *

(b) A hospital shall not develop or have developed on its behalf a new health care project without issuance of a certificate of need by the ~~commissioner~~ board. For purposes of this subsection, a "new health care project" includes the following:

* * *

(2) The purchase, lease, or other comparable arrangement of a single piece of diagnostic and therapeutic equipment for which the cost, or in the case of a donation the value, is in excess of \$1,000,000.00. For purposes of this subdivision, the purchase or lease of one or more articles of diagnostic or therapeutic equipment which are necessarily interdependent in the performance of their ordinary functions or which would constitute any health care facility included under subdivision ~~9432(7)(B)~~9432(8)(B) of this title, as determined by the ~~commissioner~~ board, shall be considered together in calculating the amount of an expenditure. The ~~commissioner's~~ board's determination of functional interdependence of items of equipment under this subdivision shall have the effect of a final decision and is subject to appeal under ~~this subchapter~~ section 9381 of this title.

* * *

(c) In the case of a project which requires a certificate of need under this section, expenditures for which are anticipated to be in excess of \$30,000,000.00, the applicant first shall secure a conceptual development phase certificate of need, in accordance with the standards and procedures established in this subchapter, which permits the applicant to make expenditures for architectural services, engineering design services, or any other planning services, as defined by the ~~commissioner~~ board, needed in connection with the project. Upon completion of the conceptual development phase of the project, and before offering or further developing the project, the applicant shall secure a final certificate of need, in accordance with the standards and procedures established in this subchapter. Applicants shall not be subject to sanctions for failure to comply with the provisions

of this subsection if such failure is solely the result of good faith reliance on verified project cost estimates issued by qualified persons, which cost estimates would have led a reasonable person to conclude the project was not anticipated to be in excess of \$30,000,000.00 and therefore not subject to this subsection. The provisions of this subsection notwithstanding, expenditures may be made in preparation for obtaining a conceptual development phase certificate of need, which expenditures shall not exceed \$1,500,000.00 for non-hospitals or \$3,000,000.00 for hospitals.

(d) If the ~~commissioner~~ board determines that a person required to obtain a certificate of need under this subchapter has separated a single project into components in order to avoid cost thresholds or other requirements under this subchapter, the person shall be required to submit an application for a certificate of need for the entire project, and the ~~commissioner~~ board may proceed under section 9445 of this title. The ~~commissioner's~~ board's determination under this subsection shall have the effect of a final decision and is subject to appeal under ~~this subchapter~~ section 9381 of this title.

(e) Beginning January 1, ~~2005~~ 2013, and biannually thereafter, the ~~commissioner~~ board may by rule adjust the monetary jurisdictional thresholds contained in this section. In doing so, the ~~commissioner~~ board shall reflect the same categories of health care facilities, services, and programs recognized in this section. Any adjustment by the ~~commissioner~~ board shall not exceed the consumer price index rate of inflation.

Sec. 16a. 18 V.S.A. § 9435 is amended to read:

§ 9435. EXCLUSIONS

* * *

(b) Excluded from this subchapter are community mental health or developmental disability center health care projects proposed by a designated agency and supervised by the commissioner of mental health or the commissioner of disabilities, aging, and independent living, or both, depending on the circumstances and subject matter of the project, provided the appropriate commissioner or commissioners make a written approval of the proposed health care project. The designated agency shall submit a copy of the approval with a letter of intent to the ~~commissioner~~ board.

* * *

(e) Upon request under 8 V.S.A. § 5102(f) by a Program for All-Inclusive Care for the Elderly (PACE) authorized under federal Medicare law, or by a Prepaid Inpatient Health Plan (PIHP) or Prepaid Ambulatory Health Plan (PAHP) established in accordance with federal Medicare or Medicaid laws and

regulations, the ~~commissioner~~ board may approve the exemption of the PACE program, PIHP, or PAHP from the provisions of this subchapter and from any other provisions of this chapter if the ~~commissioner~~ board determines that the purposes of this subchapter and the purposes of any other provision of this chapter will not be materially and adversely affected by the exemption. In approving an exemption, the ~~commissioner~~ board may prescribe such terms and conditions as the ~~commissioner~~ board deems necessary to carry out the purposes of this subchapter and this chapter.

Sec. 17. 18 V.S.A. § 9437 is amended to read:

§ 9437. CRITERIA

A certificate of need shall be granted if the applicant demonstrates and the ~~commissioner~~ board finds that:

- (1) the application is consistent with the health resource allocation plan;
- (2) the cost of the project is reasonable, because:

(A) the applicant's financial condition will sustain any financial burden likely to result from completion of the project;

(B) the project will not result in an undue increase in the costs of medical care. In making a finding under this subdivision, the ~~commissioner~~ board shall consider and weigh relevant factors, including:

* * *

Sec. 18. 18 V.S.A. § 9439 is amended to read:

§ 9439. COMPETING APPLICATIONS

(a) The ~~commissioner~~ board shall provide by rule a process by which any person wishing to offer or develop a new health care project may submit a competing application when a substantially similar application is pending. The competing application must be filed and completed in a timely manner, and the original application and all competing applications shall be reviewed concurrently. A competing applicant shall have the same standing for administrative and judicial review under this subchapter as the original applicant.

(b) When a letter of intent to compete has been filed, the review process is suspended and the time within which a decision must be made as provided in subdivision 9440(d)(4) of this title is stayed until the competing application has been ruled complete or for a period of 55 days from the date of notification under subdivision 9440(c)(8) as to the original application, whichever is shorter.

(c) Nothing in this subchapter shall be construed to restrict the ~~commissioner~~ board to granting a certificate of need to only one applicant for a new health care project.

(d) The ~~commissioner~~ board may, by rule, establish regular review cycles for the addition of beds for skilled nursing or intermediate care.

(e) In the case of proposals for the addition of beds for skilled nursing or intermediate care, the ~~commissioner~~ board shall identify in advance of the review the number of additional beds to be considered in that cycle or the maximum additional financial obligation to be incurred by the agencies of the state responsible for financing long-term care. The number of beds shall be consistent with the number of beds determined to be necessary by the health resource management plan or state health plan, whichever applies, and shall take into account the number of beds needed to develop a new, efficient facility.

(f) Unless an application meets the requirements of subsection 9440(e) of this title, the ~~commissioner~~ board shall consider disapproving a certificate of need application for a hospital if a project was not identified prospectively as needed at least two years prior to the time of filing in the hospital's four-year capital plan required under subdivision 9454(a)(6) of this title. The ~~commissioner~~ board shall review all hospital four-year capital plans as part of the review under subdivision 9437(2)(B) of this title.

Sec. 19. 18 V.S.A. § 9440 is amended to read:

§ 9440. PROCEDURES

(a) Notwithstanding 3 V.S.A. chapter 25 ~~of Title 3~~, a certificate of need application shall be in accordance with the procedures of this section.

(b)(1) The application shall be in such form and contain such information as the ~~commissioner~~ board establishes. In addition, the ~~commissioner~~ board may require of an applicant any or all of the following information that the ~~commissioner~~ board deems necessary:

(A) institutional utilization data, including an explanation of the unique character of services and a description of case mix;

(B) a population based description of the institution's service area;

(C) the applicant's financial statements;

(D) third party reimbursement data;

(E) copies of feasibility studies, surveys, designs, plans, working drawings, or specifications developed in relation to the proposed project;

(F) annual reports and four-year long range plans;

(G) leases, contracts, or agreements of any kind that might affect quality of care or the nature of services provided;

(H) the status of all certificates issued to the applicant under this subchapter during the three years preceding the date of the application. As a condition to deeming an application complete under this section, the ~~commissioner~~ board may require that an applicant meet with the ~~commissioner~~ board to discuss the resolution of the applicant's compliance with those prior certificates; and

(I) additional information as needed by the ~~commissioner~~ board, including information from affiliated corporations or other persons in the control of or controlled by the applicant.

(2) In addition to the information required for submission, an applicant may submit, and the ~~commissioner~~ board shall consider, any other information relevant to the application or the review criteria.

(c) The application process shall be as follows:

(1) Applications shall be accepted only at such times as the ~~commissioner~~ board shall establish by rule.

(2)(A) Prior to filing an application for a certificate of need, an applicant shall file an adequate letter of intent with the ~~commissioner~~ board no less than 30 days or, in the case of review cycle applications under section 9439 of this title, no less than 45 days prior to the date on which the application is to be filed. The letter of intent shall form the basis for determining the applicability of this subchapter to the proposed expenditure or action. A letter of intent shall become invalid if an application is not filed within six months of the date that the letter of intent is received or, in the case of review cycle applications under section 9439 of this title, within such time limits as the ~~commissioner~~ board shall establish by rule. Except for requests for expedited review under subdivision (5) of this subsection, public notice of such letters of intent shall be provided in newspapers having general circulation in the region of the state affected by the letter of intent. The notice shall identify the applicant, the proposed new health care project, and the date by which a competing application or petition to intervene must be filed. In addition, a copy of the public notice shall be sent to the clerk of the municipality in which the health care facility is located. Upon receipt, the clerk shall post the notice in or near the clerk's office and in at least two other public places in the municipality.

(B) Applicants who agree that their proposals are subject to jurisdiction pursuant to section 9434 of this title shall not be

required to file a letter of intent pursuant to subdivision (A) of this subdivision (2) and may file an application without further process. Public notice of the application shall be provided upon filing as provided for in subdivision (A) of this subdivision (2) for letters of intent.

(3) The ~~commissioner~~ board shall review each letter of intent and, if the letter contains the information required for letters of intent as established by the ~~commissioner~~ board by rule, within 30 days, determine whether the project described in the letter will require a certificate of need. If the ~~commissioner~~ board determines that a certificate of need is required for a proposed expenditure or action, an application for a certificate of need shall be filed before development of the project begins.

(4) Within 90 days of receipt of an application, the ~~commissioner~~ board shall notify the applicant that the application contains all necessary information required and is complete, or that the application review period is complete notwithstanding the absence of necessary information. The ~~commissioner~~ board may extend the 90-day application review period for an additional 60 days, or for a period of time in excess of 150 days with the consent of the applicant. The time during which the applicant is responding to the ~~commissioner's~~ board's notice that additional information is required shall not be included within the maximum review period permitted under this subsection. The ~~commissioner~~ board may determine that the certificate of need application shall be denied if the applicant has failed to provide all necessary information required to review the application.

(5) An applicant seeking expedited review of a certificate of need application may simultaneously file a letter of intent and an application with the ~~commissioner~~ board. Upon making a determination that the proposed project may be uncontested and does not substantially alter services, as defined by rule, or upon making a determination that the application relates to a health care facility affected by bankruptcy proceedings, the ~~commissioner~~ board shall issue public notice of the application and the request for expedited review and identify a date by which a competing application or petition for interested party status must be filed. If a competing application is not filed and no person opposing the application is granted interested party status, the ~~commissioner~~ board may formally declare the application uncontested and may issue a certificate of need without further process, or with such abbreviated process as the ~~commissioner~~ board deems appropriate. If a competing application is filed or a person opposing the application is granted interested party status, the applicant shall follow the certificate of need standards and procedures in this section, except that in the case of a health care facility affected by bankruptcy proceedings, the ~~commissioner~~ board after notice and an opportunity to be

heard may issue a certificate of need with such abbreviated process as the ~~commissioner~~ board deems appropriate, notwithstanding the contested nature of the application.

(6) If an applicant fails to respond to an information request under subdivision (4) of this subsection within six months or, in the case of review cycle applications under section 9439 of this title, within such time limits as the ~~commissioner~~ board shall establish by rule, the application will be deemed inactive unless the applicant, within six months, requests in writing that the application be reactivated and the ~~commissioner~~ board grants the request. If an applicant fails to respond to an information request within 12 months or, in the case of review cycle applications under section 9439 of this title, within such time limits as the ~~commissioner~~ board shall establish by rule, the application will become invalid unless the applicant requests, and the ~~commissioner~~ board grants, an extension.

(7) For purposes of this section, “interested party” status shall be granted to persons or organizations representing the interests of persons who demonstrate that they will be substantially and directly affected by the new health care project under review. Persons able to render material assistance to the ~~commissioner~~ board by providing nonduplicative evidence relevant to the determination may be admitted in an amicus curiae capacity but shall not be considered parties. A petition seeking party or amicus curiae status must be filed within 20 days following public notice of the letter of intent, or within 20 days following public notice that the application is complete. The ~~commissioner~~ board shall grant or deny a petition to intervene under this subdivision within 15 days after the petition is filed. The ~~commissioner~~ board shall grant or deny the petition within an additional 30 days upon finding that good cause exists for the extension. Once interested party status is granted, the ~~commissioner~~ board shall provide the information necessary to enable the party to participate in the review process.—~~Such information includes, including~~ information about procedures, copies of all written correspondence, and copies of all entries in the application record.

(8) Once an application has been deemed to be complete, public notice of the application ~~will~~ shall be provided in newspapers having general circulation in the region of the state affected by the application. The notice shall identify the applicant, the proposed new health care project, and the date by which a competing application under section 9439 of this title or a petition to intervene must be filed.

(9) The health care ombudsman’s office established under 8 V.S.A. chapter 107, subchapter ~~1A of chapter 107 of Title 8~~ or, in the case of nursing

homes, the long-term care ombudsman's office established under 33 V.S.A. § 7502, is authorized but not required to participate in any administrative or judicial review of an application under this subchapter and shall be considered an interested party in such proceedings upon filing a notice of intervention with the ~~commissioner~~ board.

(d) The review process shall be as follows:

(1) The ~~commissioner~~ board shall review:

(A) The application materials provided by the applicant.

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

(2) ~~The department~~ Except as otherwise provided in subdivision (c)(5) and subsection (e) of this section, the board shall hold a public hearing during the course of a review.

(3) The ~~commissioner~~ board shall make a final decision within 120 days after the date of notification under subdivision (c)(4) of this section. Whenever it is not practicable to complete a review within 120 days, the ~~commissioner~~ board may extend the review period up to an additional 30 days. Any review period may be extended with the written consent of the applicant and all other applicants in the case of a review cycle process.

(4) After reviewing each application, the ~~commissioner~~ board 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~~ board may impose in furtherance of the purposes of this subchapter, or a denial. In granting a partial approval or a conditional approval the ~~commissioner~~ board 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.

(5) If the ~~commissioner~~ board proposes to render a final decision denying an application in whole or in part, or approving a contested application, the ~~commissioner~~ board 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~~ board. The ~~commissioner~~ board may also permit the parties to present additional evidence.

(6) Notice of the final decision shall be sent to the applicant, competing applicants, and interested parties. The final decision shall include written findings and conclusions stating the basis of the decision.

(7) The ~~commissioner~~ board shall establish rules governing the compilation of the record used by the ~~commissioner~~ board in connection with decisions made on applications filed and certificates issued under this subchapter.

(e) The ~~commissioner~~ board shall adopt rules governing procedures for the expeditious processing of applications for replacement, repair, rebuilding, or reequipping of any part of a health care facility or health maintenance organization destroyed or damaged as the result of fire, storm, flood, act of God, or civil disturbance, or any other circumstances beyond the control of the applicant where the ~~commissioner~~ board finds that the circumstances require action in less time than normally required for review. If the nature of the emergency requires it, an application under this subsection may be reviewed by the ~~commissioner~~ board only, without notice and opportunity for public hearing or intervention by any party.

(f) Any applicant, competing applicant, or interested party aggrieved by a final decision of the ~~commissioner~~ board under this section may appeal ~~the decision to the supreme court~~ pursuant to the provisions of section 9381 of this title.

(g) If the ~~commissioner~~ board has reason to believe that the applicant has violated a provision of this subchapter, a rule adopted pursuant to this subchapter, or the terms or conditions of a prior certificate of need, the ~~commissioner~~ board may take into consideration such violation in determining whether to approve, deny, or approve the application subject to conditions. The applicant shall be provided an opportunity to contest whether such violation occurred, unless such an opportunity has already been provided. The ~~commissioner~~ board may impose as a condition of approval of the application that a violation be corrected or remediated before the certificate may take effect.

Sec. 20. 18 V.S.A. § 9440a is amended to read:

§ 9440a. APPLICATIONS, INFORMATION, AND TESTIMONY; OATH
REQUIRED

(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~~ board, and any testimony taken before the ~~commissioner~~ board

or a hearing officer appointed by the ~~commissioner~~ board shall be submitted or taken under oath. The form and manner of the submission shall be prescribed by the ~~commissioner~~ board. The authority granted to the ~~commissioner~~ board under this section is in addition to any other authority granted to the ~~commissioner~~ board under law.

(b) Each application shall be filed by the applicant's chief executive officer under oath, as provided by subsection (a) of this section. The ~~commissioner~~ board may direct that information submitted with the application be submitted under oath by persons with personal knowledge of such information.

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

Sec. 20a. 18 V.S.A. § 9440b is amended to read:

§ 9440b. INFORMATION TECHNOLOGY; REVIEW PROCEDURES

Notwithstanding the procedures in section 9440 of this title, upon approval by the general assembly of the health information technology plan developed under section 9351 of this title, the ~~commissioner~~ board shall establish by rule standards and expedited procedures for reviewing applications for the purchase or lease of health care information technology that otherwise would be subject to review under this subchapter. Such applications may not be granted or approved unless they are consistent with the health information technology plan and the health resource allocation plan. The ~~commissioner's~~ board's rules may include a provision requiring that applications be reviewed by the health information advisory group authorized under section 9352 of this title. The advisory group shall make written findings and a recommendation to the ~~commissioner~~ board in favor of or against each application.

Sec. 20b. 18 V.S.A. § 9441 is amended to read:

§ 9441. FEES

(a) The ~~commissioner~~ board shall charge a fee for the filing of certificate of need applications. The fee shall be calculated at the rate of 0.125 percent of project costs.

(b) The maximum fee shall not exceed \$20,000.00 and the minimum filing fee is \$250.00 regardless of project cost. No fee shall be charged on projects amended as part of the review process.

(c) The ~~commissioner~~ board may retain such additional professional or other staff as needed to assist in particular proceedings under this subchapter and may assess and collect the reasonable expenses for such additional staff from the applicant. The ~~commissioner~~ board, on petition by the applicant and opportunity for hearing, may reduce such assessment upon a proper showing by the applicant that such expenses were excessive or unnecessary. The authority granted to the ~~commissioner~~ board under this section is in addition to any other authority granted to the ~~commissioner~~ board under law.

Sec. 20c. 18 V.S.A. § 9442 is amended to read:

§ 9442. BONDS

In any circumstance in which bonds are to be or may be issued in connection with a new health care project subject to the provisions of this subchapter, the certificate of need shall include the requirement that all information required to be provided to the bonding agency shall be provided also to the ~~commissioner~~ board within a reasonable period of time. The ~~commissioner~~ board shall be authorized to obtain any information from the bonding agency deemed necessary to carry out the duties of monitoring and oversight of a certificate of need. The bonding agency shall consider the recommendations of the ~~commissioner~~ board in connection with any such proposed authorization.

Sec. 20d. 18 V.S.A. § 9443 is amended to read:

§ 9443. EXPIRATION OF CERTIFICATES OF NEED

(a) Unless otherwise specified in the certificate of need, a project shall be implemented within five years or the certificate shall be invalid.

(b) No later than 180 days before the expiration date of a certificate of need, an applicant that has not yet implemented the project approved in the certificate of need may petition the ~~commissioner~~ board for an extension of the implementation period. The ~~commissioner~~ board may grant an extension in ~~his or her~~ its discretion.

(c) Certificates of need shall expire on the date the ~~commissioner~~ board accepts the final implementation report filed in connection with the project implemented pursuant to the certificate.

* * *

Sec. 21. 18 V.S.A. § 9444 is amended to read:

§ 9444. REVOCATION OF CERTIFICATES; MATERIAL CHANGE

(a) The ~~commissioner~~ board may revoke a certificate of need for substantial noncompliance with the scope of the project as designated in the application, or for failure to comply with the conditions set forth in the certificate of need granted by the ~~commissioner~~ board.

(b)(1) In the event that after a project has been approved, its proponent wishes to materially change the approved project, all such changes are subject to review under this subchapter.

(2) Applicants shall notify the ~~commissioner~~ board of a nonmaterial change to the approved project. If the ~~commissioner~~ board decides to review a nonmaterial change, ~~he or she~~ the board may provide for any necessary process, including a public hearing, before approval. Where the ~~commissioner~~ board decides not to review a change, such change will be deemed to have been granted a certificate of need.

Sec. 21a. 18 V.S.A. § 9445 is amended to read:

§ 9445. ENFORCEMENT

(a) Any person who offers or develops any new health care project within the meaning of this subchapter without first obtaining a certificate of need as required herein, or who otherwise violates any of the provisions of this subchapter, may be subject to the following administrative sanctions by the ~~commissioner~~ board, after notice and an opportunity to be heard:

(1) The ~~commissioner~~ board may order that no license or certificate permitted to be issued by the department or any other state agency may be issued to any health care facility to operate, offer, or develop any new health care project for a specified period of time, or that remedial conditions be attached to the issuance of such licenses or certificates.

(2) The ~~commissioner~~ board may order that payments or reimbursements to the entity for claims made under any health insurance policy, subscriber contract, or health benefit plan offered or administered by any public or private health insurer, including the Medicaid program and any other health benefit program administered by the state be denied, reduced, or limited, and in the case of a hospital that the hospital's annual budget approved under subchapter 7 of this chapter be adjusted, modified, or reduced.

(b) In addition to all other sanctions, if any person offers or develops any new health care project without first having been issued a certificate of need or certificate of exemption therefore, or violates any other provision of this subchapter or any lawful rule or regulation promulgated thereunder, the board, the commissioner, the state health care ombudsman, the state long-term care ombudsman, and health care providers or and consumers located in the state

shall have standing to maintain a civil action in the superior court of the county wherein such alleged violation has occurred, or wherein such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the ~~commissioner~~ board, it shall be the duty of the attorney general of the state to furnish appropriate legal services and to prosecute an action for injunctive relief to an appropriate conclusion, which shall not be reimbursed under subdivision (2) of this subsection.

(c) After notice and an opportunity for hearing, the ~~commissioner~~ board may impose on a person who knowingly violates a provision of this subchapter, or a rule or order adopted pursuant to this subchapter or 8 V.S.A. § 15, a civil administrative penalty of no more than \$40,000.00, or in the case of a continuing violation, a civil administrative penalty of no more than \$100,000.00 or one-tenth of one percent of the gross annual revenues of the health care facility, whichever is greater, which shall not be reimbursed under subdivision (a)(2) of this section, and the ~~commissioner~~ board may order the entity to cease and desist from further violations, and to take such other actions necessary to remediate a violation. A person aggrieved by a decision of the ~~commissioner~~ board under this subdivision may appeal ~~the commissioner's decision to the supreme court~~ under section 9381 of this title.

(d) The ~~commissioner~~ board shall adopt by rule criteria for assessing the circumstances in which a violation of a provision of this subchapter, a rule adopted pursuant to this subchapter, or the terms or conditions of a certificate of need require that a penalty under this section shall be imposed, and criteria for assessing the circumstances in which a penalty under this section may be imposed.

Sec. 22. 18 V.S.A. § 9446 is amended to read:

§ 9446. HOME HEALTH AGENCIES; GEOGRAPHIC SERVICE AREAS

The terms of a certificate of need relating to the boundaries of the geographic service area of a home health agency may be modified by the ~~commissioner~~ board, in consultation with the commissioner of aging and independent living, after notice and opportunity for hearing, or upon written application to the ~~commissioner~~ board by the affected home health agencies or consumers, demonstrating a substantial need therefor. Service area boundaries may be modified by the ~~commissioner~~ board to take account of natural or physical barriers that may make the provision of existing services uneconomical or impractical, to prevent or minimize unnecessary duplication of services or facilities, or otherwise to promote the public interest. The ~~commissioner~~ board shall issue an order granting such application only upon a finding that the granting of such application is consistent with the

purposes of 33 V.S.A. chapter 63, subchapter 1A ~~of chapter 63 of Title 33~~ and the health resource allocation plan established under section 9405 of this title and after notice and an opportunity to participate on the record by all interested persons, including affected local governments, pursuant to rules adopted by the ~~commissioner~~ board.

* * * Hospital Budgets * * *

Sec. 23. 18 V.S.A. chapter 221, subchapter 7 is amended to read:

Subchapter 7. Hospital Budget Review

* * *

§ 9453. POWERS AND DUTIES

(a) The ~~commissioner~~ board shall:

* * *

(b) To effectuate the purposes of this subchapter the ~~commissioner~~ board may adopt rules under 3 V.S.A. chapter 25 ~~of Title 3~~.

§ 9454. HOSPITALS; DUTIES

(a) Hospitals shall file the following information at the time and place and in the manner established by the ~~commissioner~~ board:

* * *

(7) such other information as the ~~commissioner~~ board may require.

* * *

§ 9456. BUDGET REVIEW

(a) The ~~commissioner~~ board shall conduct reviews of each hospital's proposed budget based on the information provided pursuant to this subchapter, and in accordance with a schedule established by the ~~commissioner~~ board. The ~~commissioner~~ board shall require the submission of documentation certifying that the hospital is participating in the Blueprint for Health if required by section 708 of this title.

(b) In conjunction with budget reviews, the ~~commissioner~~ board shall:

* * *

(10) require each hospital to provide information on administrative costs, as defined by the ~~commissioner~~ board, including specific information on the amounts spent on marketing and advertising costs.

(c) Individual hospital budgets established under this section shall:

(1) be consistent with the health resource allocation plan;

(2) take into consideration national, regional, or instate peer group norms, according to indicators, ratios, and statistics established by the ~~commissioner~~ board;

* * *

(d)(1) Annually, the ~~commissioner~~ board shall establish a budget for each hospital by September 15, followed by a written decision by October 1. Each hospital shall operate within the budget established under this section.

(2)(A) It is the general assembly's intent that hospital cost containment conduct is afforded state action immunity under applicable federal and state antitrust laws, if:

(i) the ~~commissioner~~ board requires or authorizes the conduct in any hospital budget established by the ~~commissioner~~ board under this section;

(ii) the conduct is in accordance with standards and procedures prescribed by the ~~commissioner~~ board; and

(iii) the conduct is actively supervised by the ~~commissioner~~ board.

(B) A hospital's violation of the ~~commissioner's~~ board's standards and procedures shall be subject to enforcement pursuant to subsection (h) of this section.

(e) The ~~commissioner~~ board may establish, ~~by rule~~, a process to define, on an annual basis, criteria for hospitals to meet, such as utilization and inflation benchmarks. The ~~commissioner~~ board may waive one or more of the review processes listed in subsection (b) of this section.

(f) The ~~commissioner~~ board may, upon application, adjust a budget established under this section upon a showing of need based upon exceptional or unforeseen circumstances in accordance with the criteria and processes established under section 9405 of this title.

(g) The ~~commissioner~~ board may request, and a hospital shall provide, information determined by the ~~commissioner~~ board to be necessary to determine whether the hospital is operating within a budget established under this section. For purposes of this subsection, subsection (h) of this section, and subdivision 9454(a)(7) of this title, the ~~commissioner's~~ board's authority shall extend to an affiliated corporation or other person in the control of or controlled by the hospital to the extent that such authority is necessary to carry out the purposes of this subsection, subsection (h) of this section, or subdivision 9454(a)(7) of this title. As used in this subsection, a

rebuttable presumption of “control” is created if the entity, hospital, or other person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 20 percent or more of the voting securities or membership interest or other governing interest of the hospital or other controlled entity.

(h)(1) If a hospital violates a provision of this section, the ~~commissioner~~ board may maintain an action in the superior court of the county in which the hospital is located to enjoin, restrain or prevent such violation.

(2)(A) After notice and an opportunity for hearing, the ~~commissioner~~ board may impose on a person who knowingly violates a provision of this subchapter, or a rule adopted pursuant to this subchapter, a civil administrative penalty of no more than \$40,000.00, or in the case of a continuing violation, a civil administrative penalty of no more than \$100,000.00 or one-tenth of one percent of the gross annual revenues of the hospital, whichever is greater. This subdivision shall not apply to violations of subsection (d) of this section caused by exceptional or unforeseen circumstances.

(B)(i) The ~~commissioner~~ board may order a hospital to:

(I)(aa) cease material violations of this subchapter or of a regulation or order issued pursuant to this subchapter; or

(bb) cease operating contrary to the budget established for the hospital under this section, provided such a deviation from the budget is material; and

(II) take such corrective measures as are necessary to remediate the violation or deviation and to carry out the purposes of this subchapter.

(ii) Orders issued under this subdivision (2)(B) shall be issued after notice and an opportunity to be heard, except where the ~~commissioner~~ board finds that a hospital’s financial or other emergency circumstances pose an immediate threat of harm to the public or to the financial condition of the hospital. Where there is an immediate threat, the ~~commissioner~~ board may issue orders under this subdivision (2)(B) without written or oral notice to the hospital. Where an order is issued without notice, the hospital shall be notified of the right to a hearing at the time the order is issued. The hearing shall be held within 30 days of receipt of the hospital’s request for a hearing, and a decision shall be issued within 30 days after conclusion of the hearing. The ~~commissioner~~ board may increase the time to hold the hearing or to render the decision for good cause shown. Hospitals may appeal any decision in this subsection to superior court. Appeal shall be on the record as developed by the

~~commissioner~~ board in the administrative proceeding and the standard of review shall be as provided in 8 V.S.A. § 16.

(3)(A) The ~~commissioner~~ board shall require the officers and directors of a hospital to file under oath, on a form and in a manner prescribed by the commissioner, any information designated by the ~~commissioner~~ board and required pursuant to this subchapter. The authority granted to the ~~commissioner~~ board under this subsection is in addition to any other authority granted to the ~~commissioner~~ board under law.

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

* * *

* * * Provider Bargaining Groups * * *

Sec. 24. 18 V.S.A. § 9409 is amended to read:

§ 9409. HEALTH CARE PROVIDER BARGAINING GROUPS

(a) The commissioner may approve the creation of one or more health care provider bargaining groups, consisting of health care providers who choose to participate. A bargaining group is authorized to negotiate, on behalf of all participating providers with the commissioner, the secretary of administration, the secretary of human services, the Green Mountain Care Board, or the commissioner of labor with respect to any matter in this chapter; chapter 13, 219, 220, or 222 of this title; chapters 21 V.S.A. chapter 9 and 11 of Title 21; and chapter 33 V.S.A. chapters 18 and 19 of Title 33, in regard with respect to provider regulation, provider reimbursement, administrative simplification, information technology, medical malpractice reform, workforce planning, or quality of health care.

* * *

(c) The rules relating to negotiations shall include a nonbinding arbitration process to assist in the resolution of disputes. Nothing in this section shall be construed to limit the authority of the commissioner, the commissioner of labor, the secretary of administration, the Green Mountain Care board, or the secretary of human services to reject the recommendation or decision of the arbiter.

* * * Insurance Rate Reviews * * *

Sec. 25. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

(a)(1) No policy of health insurance or certificate under a policy filed by an insurer offering health insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital or medical service corporation, health maintenance organization, or a managed care organization and not exempted by subdivision 3368(a)(4) of this title shall be delivered or issued for delivery in this state, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until:

(A) a copy of the form, premium rates, and rules for the classification of risks pertaining thereto have been filed with the commissioner of banking, insurance, securities, and health care administration; ~~nor shall any such form, premium rate, or rule be so used until the expiration of 30 days after having been filed, or in the case of a request for a rate increase, until and~~

(B) a decision by the Green Mountain Care board has been applied by the commissioner as provided herein, unless the commissioner shall sooner give his or her written approval thereto in subdivision (2) of this subsection.

(2)(A) Prior to approving a rate ~~increase~~ pursuant to this subsection, the commissioner shall seek approval for such rate increase from the Green Mountain Care board established in 18 V.S.A. chapter 220, which. The commissioner shall make a recommendation to the Green Mountain Care board about whether to approve or disapprove the rate within 30 days of receipt of a completed application from an insurer. In the event that the commissioner does not make a recommendation to the board within the 30-day period, the commissioner shall be deemed to have recommended approval of the rate, and the Green Mountain Care board shall review the rate request pursuant to subdivision (B) of this subsection.

(B) The Green Mountain Care board shall review rate requests forwarded by the commissioner pursuant to subdivision (A) of this subsection and shall approve or disapprove the a rate increase request within 10-business 30 days of receipt of the commissioner's recommendation or, in the absence of a recommendation from the commissioner, the expiration of the 30-day period following the department's receipt of the completed application. In the event that the board does not approve or disapprove a rate within 30 days, the board shall be deemed to have approved the rate request.

(C) The commissioner shall apply the decision of the Green Mountain Care board as to rates referred to the board within five business days of the board's decision.

~~(2)~~(3) The commissioner shall review policies and rates to determine whether a policy or rate is affordable, promotes quality care, promotes access to health care, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this state. The commissioner shall notify in writing the insurer which has filed any such form, premium rate, or rule if it contains any provision which does not meet the standards expressed in this section. In such notice, the commissioner shall state that a hearing will be granted within 20 days upon written request of the insurer. The board may, in its discretion, conduct a hearing on the premium rate jointly with any such hearing before the commissioner.

~~(3) After the expiration of the review period provided herein or at any time after having given written approval~~

(b) At any time after applying the decision of the Green Mountain Care board pursuant to subdivision (a)(2)(C) of this section, the commissioner may, after a hearing of which at least 20 days' written notice has been given to the insurer using such form, premium rate, or rule, withdraw approval on any of the grounds stated in this section. Such disapproval shall be effected by written order of the commissioner which shall state the ground for disapproval and the date, not less than 30 days after such hearing when the withdrawal of approval shall become effective.

~~(b)~~(c) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of any requested rate increase of five percent or greater. If, during the plan year, the insurer files for rate increases that are cumulatively five percent or greater, the insurer shall file a summary applicable to the cumulative rate increase. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the commissioner. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment period established in subsection ~~(e)~~ (d) of this section. In addition, the insurer shall post the summaries on its website.

~~(e)~~(d)(1) The commissioner shall provide information to the public on the department's website about the public availability of the filings and summaries required under this section.

(2) Beginning no later than January 1, 2012, the commissioner shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection (b) of this section on the department's website within five days of filing. The department shall provide an electronic mechanism for the public to comment on proposed rate increases over five percent. The public shall have 21 days from the posting of the summaries and filings to provide public comment. The department shall review and consider the public comments prior to ~~the expiration of the review period~~ submitting the policy or rate for the Green Mountain Care board's approval pursuant to subsection (a) of this section. The department shall provide the Green Mountain Care board with the public comments for their consideration in approving any ~~rate increases~~ rates.

~~(d)~~(e)(1) The following provisions of this section shall not apply to policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, or other limited benefit coverage, ~~but shall apply to long-term care policies:~~

(A) the requirement in ~~subdivision~~ subdivisions (a)(1) and (2) for the Green Mountain Care board's approval ~~for any on rate increase requests;~~

(B) the review standards in subdivision ~~(a)(2)~~ (a)(3) of this section as to whether a policy or rate is affordable, promotes quality care, and promotes access to health care; and

(C) subsections ~~(b) and~~ (c) and (d) of this section.

(2) The exemptions from the provisions described in subdivisions (1)(A) through (C) of this subsection shall also apply to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

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

Sec. 26. 18 V.S.A. § 9381(a) is amended to read:

(a)(1) The Green Mountain Care board shall adopt procedures for administrative appeals of its actions, orders, or other determinations. Such

procedures shall provide for the issuance of a final order and the creation of a record sufficient to serve as the basis for judicial review pursuant to subsection (b) of this section.

(2) Only decisions by the board shall be appealable under this subsection. Recommendations to the board by the commissioner of banking, insurance, securities, and health care administration pursuant to 8 V.S.A. § 4062(a) shall not be subject to appeal.

Sec. 26a. HEALTH CARE OMBUDSMAN REPORT

No later than January 15, 2013, the state health care ombudsman, in collaboration with the department of banking, insurance, securities, and health care administration and the agency of human services, shall report to the house committee on health care and the senate committees on health and welfare and on finance regarding the ombudsman's current and projected funding and resource needs, suggestions for funding mechanisms to meet those needs, and recommendations on how best to coordinate or consolidate the consumer protection efforts of the ombudsman's office, the department, and the agency.

* * * Payment Reform Pilots * * *

Sec. 27. 18 V.S.A. § 9377 is amended to read:

§ 9377. PAYMENT REFORM; PILOTS

* * *

~~(b)(1) The board, in collaboration with the commissioner of Vermont health access, shall be responsible for payment and delivery system reform, including setting the overall policy goals for the pilot projects established in chapter 13, subchapter 2 of this title this section.~~

~~(2) The director of payment reform in the department of Vermont health access shall develop and implement the payment reform pilot projects in accordance with policies established by the board, and the board shall evaluate the effectiveness of such pilot projects in order to inform the payment and delivery system reform.~~

(3) Payment reform pilot projects shall be developed and implemented to manage the costs of the health care delivery system, improve health outcomes for Vermonters, provide a positive health care experience for patients and health care professionals, and further the following objectives:

* * *

~~(4)(3)~~ In addition to the objectives identified in subdivision ~~(a)(3)~~ (a)(2)

of this section, the design and implementation of payment reform pilot projects may consider:

* * *

(e) The board or designee shall convene a broad-based group of stakeholders, including health care professionals who provide health services, health insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, the state health care ombudsman, and state and local governments, to advise the board in developing and implementing the pilot projects and to advise the Green Mountain Care board in setting overall policy goals.

(f) The first pilot project shall become operational no later than July 1, 2012, and two or more additional pilot projects shall become operational no later than October 1, 2012.

(g)(1) Health insurers shall participate in the development of the payment reform strategic plan for the pilot projects and in the implementation of the pilot projects, including providing incentives, fees, or payment methods, as required in this section. This requirement may be enforced by the department of banking, insurance, securities, and health care administration to the same extent as the requirement to participate in the Blueprint for Health pursuant to 8 V.S.A. § 4088h.

(2) The board may establish procedures to exempt or limit the participation of health insurers offering a stand-alone dental plan or specific disease or other limited-benefit coverage or participation by insurers with a minimal number of covered lives as defined by the board, in consultation with the commissioner of banking, insurance, securities, and health care administration. Health insurers shall be exempt from participation if the insurer offers only benefit plans which are paid directly to the individual insured or the insured's assigned beneficiaries and for which the amount of the benefit is not based upon potential medical costs or actual costs incurred.

(3) In the event that the secretary of human services is denied permission from the Centers for Medicare and Medicaid Services to include financial participation by Medicare in the pilot projects, health insurers shall not be required to cover the costs associated with individuals covered by Medicare.

(4) After implementation of the pilot projects described in this subchapter, health insurers shall have appeal rights pursuant to section 9381 of this title.

* * * Blueprint for Health * * *

Sec. 28. 18 V.S.A. § 702 is amended to read:

§ 702. BLUEPRINT FOR HEALTH; STRATEGIC PLAN

(a)(1) The department of Vermont health access shall be responsible for the Blueprint for Health.

(2) The director of the Blueprint, in collaboration with the ~~commissioner~~ commissioners of health, of mental health, and the commissioner of Vermont health access, and of disabilities, aging, and independent living, shall oversee the development and implementation of the Blueprint for Health, including a strategic plan describing the initiatives and implementation time lines and strategies. Whenever private health insurers are concerned, the director shall collaborate with the commissioner of banking, insurance, securities, and health care administration and the chair of the Green Mountain Care board.

(b)(1)(A) The commissioner of Vermont health access shall establish an executive committee to advise the director of the Blueprint on creating and implementing a strategic plan for the development of the statewide system of chronic care and prevention as described under this section. The executive committee shall include the commissioner of health; the commissioner of mental health; a representative from the ~~department of banking, insurance, securities, and health care administration~~ Green Mountain Care board; a representative from the department of Vermont health access; an individual appointed jointly by the president pro tempore of the senate and the speaker of the house of representatives; a representative from the Vermont medical society; a representative from the Vermont nurse practitioners association; a representative from a statewide quality assurance organization; a representative from the Vermont association of hospitals and health systems; two representatives of private health insurers; a consumer; a representative of the complementary and alternative medicine professions; a primary care professional serving low income or uninsured Vermonters; a licensed professional mental health counselor with clinical experience in Vermont; a representative of the Vermont assembly of home health agencies who has clinical experience; a representative from a self-insured employer who offers a health benefit plan to its employees; and a representative of the state employees' health plan, who shall be designated by the commissioner of human resources and who may be an employee of the third-party administrator contracting to provide services to the state employees' health plan.

* * *

Sec. 28a. BLUEPRINT PARTICIPATION; LEGISLATIVE INTENT

It is the intent of the general assembly that:

(1) Access to and health insurer and Medicaid payments for a community health team should begin as soon as a medical practice begins preparation for Blueprint recognition.

(2) The director of the Blueprint use the statutory discretion afforded by 18 V.S.A. § 706(c)(2) to increase payments to medical home practices in recognition of the efforts needed to satisfy the updated National Committee for Quality Assurance scoring requirements.

(3) To the extent permitted under federal law, all health insurance plans, including the multistate plans, will be active participants in the Blueprint for Health.

* * * HMO Reporting Requirement * * *

Sec. 29. 8 V.S.A. § 5106(a) is amended to read:

(a) Every organization subject to this chapter, annually, within ~~120~~ 90 days of the close of its fiscal year, shall file a report with the commissioner, said report verified by an appropriate official of the organization, showing its financial condition on the last day of the preceding fiscal year. The report shall be prepared in accordance with the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual for health maintenance organizations and shall be in such general form and context, as approved by, and shall contain any other information required by the National Association of Insurance Commissioners together with any useful or necessary modifications or adaptations thereof required, approved or accepted by the commissioner for the type of organization to be reported upon, and as supplemented by additional information required by the commissioner.

* * * Vermont Program for Quality in Health Care * * *

Sec. 30. 18 V.S.A. § 9416 is amended to read:

§ 9416. VERMONT PROGRAM FOR QUALITY IN HEALTH CARE

(a) The commissioner of health shall contract with the Vermont Program for Quality in Health Care, Inc. to implement and maintain a statewide quality assurance system to evaluate and improve the quality of health care services rendered by health care providers of health care facilities, including managed care organizations, to determine that health care services rendered were professionally indicated or were performed in compliance with the applicable standard of care, and that the cost of health care rendered was considered

reasonable by the providers of professional health services in that area. The commissioner of health shall ensure that the information technology components of the quality assurance system ~~are incorporated into and~~ comply with, and the commissioner of Vermont health access shall ensure such ~~components are incorporated into~~, the statewide health information technology plan developed under section 9351 of this title and any other information technology initiatives coordinated by the secretary of administration pursuant to 3 V.S.A. § 2222a.

(b) The Vermont Program for Quality in Health Care, Inc. shall file an annual report with the commissioner of health. The report shall include an assessment of progress in the areas designated by the commissioner of health, including comparative studies on the provision and outcomes of health care and professional accountability.

* * *

* * * Discretionary Clauses * * *

Sec. 31. 8 V.S.A. § 4062f is added to read:

§ 4062f. DISCRETIONARY CLAUSES PROHIBITED

(a) The purpose of this section is to ensure that health insurance benefits, and disability income protection coverage, and life insurance benefits are contractually guaranteed and to avoid the conflict of interest that may occur when the carrier responsible for providing benefits has discretionary authority to decide what benefits are due. Nothing in this section shall be construed to impose any requirement or duty on any person other than a health insurer or an insurer offering disability income protection coverage.

(b) As used in this section:

(1) “Disability income protection coverage” means a policy, contract, certificate, or agreement that provides for weekly, monthly, or other periodic payments for a specified period during the continuance of disability resulting from illness, injury, or a combination of illness and injury.

(2) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(3) “Health insurer” means an insurance company that provides health insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital or medical service corporation, a managed care organization, a health maintenance organization, and, to the extent permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care benefit plan offered by a public or private entity; as well as entities

offering policies for specific disease, accident, injury, hospital indemnity, dental care, disability income, long-term care, and other limited benefit coverage.

(4) "Life insurance" means a policy, contract, certificate, or agreement that provides life insurance as defined in subdivision 3301(a)(1) of this title.

(c) No policy, contract, certificate, or agreement offered or issued in this state by a health insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services may contain a provision purporting to reserve discretion to the health insurer to interpret the terms of the contract or to provide standards of interpretation or review that are inconsistent with the laws of this state, and any such provision in a policy, contract, certificate, or agreement shall be null and void.

(d) No policy, contract, certificate, or agreement offered or issued in this state providing for disability income protection coverage may contain a provision purporting to reserve discretion to the insurer to interpret the terms of the contract or to provide standards of interpretation or review that are inconsistent with the laws of this state, and any such provision in a policy, contract, certificate, or agreement shall be null and void.

(e) No policy, contract, certificate, or agreement of life insurance offered or issued in this state may contain a provision purporting to reserve discretion to the insurer to interpret the terms of the contract or to provide standards of interpretation or review that are inconsistent with the laws of this state, and any such provision in a policy, contract, certificate, or agreement shall be null and void.

* * * Prescription Drug Cost-Sharing * * *

Sec. 32. 8 V.S.A. § 4089i is amended to read:

§ 4089i. PRESCRIPTION DRUG COVERAGE

(a) A health insurance or other health benefit plan offered by a health insurer shall provide coverage for prescription drugs purchased in Canada, and used in Canada or reimported legally or purchased through the I-SaveRx program on the same benefit terms and conditions as prescription drugs purchased in this country. For drugs purchased by mail or through the internet, the plan may require accreditation by the Internet and Mailorder Pharmacy Accreditation Commission (IMPAC/tm) or similar organization.

(b) A health insurance or other health benefit plan offered by a health insurer or pharmacy benefit manager shall not include an annual limit on prescription drug benefits.

(c) A health insurance or other health plan offered by a health insurer or pharmacy benefit manager shall limit a beneficiary's out-of-pocket expenditures for prescription drugs, including specialty drugs, to no more per individual and family insured per year than the least amount necessary to meet both:

(1) the deductible and out-of-pocket limits in Sec. 1302(c) 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; and

(2) the minimum deductible requirements of Section 223 of the Internal Revenue Code of 1986.

(d) As used in this section:

(1) "Health insurer" shall have the same meaning as in 18 V.S.A. § 9402.

(2) "Out-of-pocket expenditure" means a co-payment, coinsurance, deductible, or other cost-sharing mechanism.

(3) "Pharmacy benefit manager" shall have the same meaning as in section 4089j of this title.

(e) The department of banking, insurance, securities and health care administration shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

Sec. 32a. 18 V.S.A. § 4631a is amended to read:

§ 4631a. EXPENDITURES BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a) As used in this section:

* * *

(12) "Prescribed product" means a drug or device as defined in section 201 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 321, a compound drug or drugs, ~~or~~ a biological product as defined in section 351 of the Public Health Service Act, 42 U.S.C. § 262, for human use, or a combination product as defined in 21 C.F.R. § 3.2(e).

* * *

(b)(1) It is unlawful for any manufacturer of a prescribed product or any wholesale distributor of medical devices, or any agent thereof, to offer or give

any gift to a health care provider or to a member of the Green Mountain Care board established in chapter 220 of this title.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to any of the following:

(A) Samples of a prescribed product or reasonable quantities of an over-the-counter drug, nonprescription medical device, ~~or item of nonprescription durable medical equipment, or item of medical food as defined in the federal Orphan Drug Act, as amended, 21 U.S.C. § 360ee(b)(3),~~ provided to a health care provider for free distribution to patients.

* * *

(H) ~~The provision of free prescription drugs or over-the-counter drugs, medical devices, biological products, medical equipment or supplies, or financial donations to a free clinic~~ of financial donations or of free:

(i) prescription drugs;

(ii) over-the-counter drugs;

(iii) medical devices;

(iv) biological products; or

(v) medical equipment or supplies.

* * *

(d) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees and may impose on a manufacturer that violates this section a civil penalty of no more than \$10,000.00 per violation. Each unlawful gift shall constitute a separate violation. In any action brought pursuant to this section, the attorney general shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Fraud Act, 9 V.S.A. chapter 63.

Sec. 32b. 18 V.S.A. § 4632 is amended to read:

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

(a)(1)(A) Annually on or before April 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the preceding calendar year the value, nature, purpose, and recipient information of any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider or to a member of the Green Mountain Care board established in chapter 220 of this title, except:

* * *

(B) Annually on or before April 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the preceding calendar year if the manufacturer is reporting other allowable expenditures or permitted gifts pursuant to subdivision (a)(1)(A) of this section, the product, dosage, number of units, and recipient information of over-the-counter drugs, nonprescription medical devices, and items of nonprescription durable medical equipment provided to a health care provider for free distribution to patients pursuant to subdivision 4631a(b)(2)(A) of this title; provided that any public reporting of such information shall not include information that allows for the identification of individual recipients of ~~samples~~ such products or connects individual recipients with the monetary value of the ~~samples~~ products provided.

* * *

(D) Any public reporting of the provision of free prescription or over-the-counter drugs, medical devices, biological products, medical equipment, or supplies to a free clinic shall not include information that allows for the identification of individual recipients of such products or connects individual recipients with the monetary value of the products provided.

(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 ~~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.

* * *

(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 October 1. The report shall include:

(A) Information on allowable expenditures and permitted gifts required to be disclosed under this section, which shall present information in aggregate form by selected types of health care providers or individual health care providers, as prioritized each year by the office; and showing the amounts expended on the Green Mountain Care board established in chapter 220 of this title. In accordance with subdivisions (1)(B), (1)(D), and (2)(A) of this subsection, information on samples and donations to free clinics of prescribed products and of over-the-counter drugs, nonprescription medical

devices, and items of nonprescription durable medical equipment shall be presented in aggregate form.

* * *

(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. In any action brought pursuant to this section, the attorney general shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Fraud Act, 9 V.S.A. chapter 63.

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

* * * Medicaid Waiver Approval * * *

Sec. 33. DUAL ELIGIBLE PROJECT PROPOSAL

(a) It is the intent of the general assembly to provide the agency of human services with the authority to enter into negotiations with the Centers for Medicare and Medicaid Services (CMS) to seek waivers as needed to operate an integrated system of coverage for individuals who are eligible for Medicare and Medicaid, and to provide the agency of human services with the authority to implement the program approved by CMS. Any waivers sought pursuant to this section shall promote the health care reform goals established in No. 48 of the Acts of 2011, including universal coverage; integration of health, mental health, and substance abuse treatment; administrative simplification; and payment reform.

(b)(1) The agency of human services may seek a waiver or waivers from CMS to enable the agency to better serve individuals who are eligible for both Medicare and Medicaid ("dual eligibles") through a consolidated program operated by the agency of human services or by a department of the agency of human services. The waiver or waivers sought pursuant to this section may be consolidated with or filed in conjunction with Vermont's Medicaid Section 1115 Global Commitment to Health waiver renewal, any Choices for Care waiver modifications, or a state children's health insurance program (SCHIP) waiver. Any modifications of the Choices for Care waiver shall be consistent with No. 56 of the Acts of 2005.

(2) The agency may seek permission to serve the dual eligibles population as a public managed care organization or through another administrative mechanism that enables the agency to integrate services for the

dual eligibles, pursue administrative flexibility and simplification, or otherwise align health coverage programs. The agency shall seek permission to implement payment mechanisms that ensure the health coverage provided under the waiver or waivers is consistent with and supportive of the payment reform initiatives established by the Green Mountain Care board.

(3) The agency shall seek a waiver to create a consolidated program which:

(A) includes eligibility standards, methodologies, and procedures that are neither more restrictive than the standards, methodologies, and procedures in effect as of January 1, 2012 nor more restrictive than the standards, methodologies, and procedures for dual eligible individuals who are not enrolled in this consolidated program.

(B) does not reduce the amount, duration, or scope of services covered by Medicaid and Medicare or impose limits on enrollment or access to services.

(C) ensures that an individual in the consolidated program receives a level of service that is equivalent to or greater than the individual would have received if he or she were not in the consolidated program.

(D) provides reasonable opportunity for an individual to disenroll from the consolidated program and transition to traditional Medicaid and Medicare coverage.

(E) as provided in the terms and conditions for the Choices for Care Section 1115 waiver, includes an independent advocacy system for all participants and applicants in the consolidated program which includes, at a minimum, access to area agency on aging advocacy, legal services, and the long-term care and health care ombudsmen.

(F) at a minimum, as required under 42 USC § 1395a(a), guarantees individuals a choice of health care providers who offer the same service or services within the individual's ISP and a choices of providers for services that are not offered through the individual's ISP.

(G) unless otherwise appropriated by the general assembly, invests at least 50 percent of the remaining funds at the end of the state fiscal year in the consolidated program.

(H) maintains state provider payment rates in the consolidated program that:

(i) permit providers to deliver services, on a solvent basis, that are

consistent with efficiency, economy, access, and quality of care; and

(ii) are at least comparable to the average weighted payment rates that eligible providers would have received from Medicaid and Medicare in the absence of the consolidated program, subject to modifications as a result of:

(I) changes to federal Medicare rates;

(II) provider rates set by the Green Mountain Care board pursuant to 18 V.S.A. § 9376; or

(III) rate negotiations between the providers in an ISP and the agency of human services.

(4) The agency of human services shall enter into a waiver only if it provides individuals enrolled in the consolidated program who become ineligible for Medicaid or Medicare or who choose to opt out of the program with a seamless transition process between coverage provided by the consolidated program and traditional Medicaid coverage, Medicare coverage, or both to ensure that the process does not result in a reduction or loss of services during the transition.

(5) The agency of human services or designee shall include the following provisions in its contracts with integrated service providers (ISP):

(A) a broad range of services for individuals, to be provided by the ISP or through contracts between the ISP and other service providers, and coordination between the ISP and other service or health care providers, including the individual's medical home, the Blueprint for Health community health teams, and Support And Services at Home (SASH), as appropriate.

(B) an enforcement mechanism to ensure that the ISP and any subcontractors provide integrated services as required by the waiver and the contract provisions.

(C) transparent quality assurance measures for evaluating the performance of the ISP and any subcontractors and a method for making the measures public.

(6) The agency of human services shall provide dual eligible individuals with meaningful information about their care options, including services through Medicaid, Medicare, and the consolidated program established in this section. The agency shall develop enrollee materials and notices that are accessible and understandable to those individuals who will be enrolled in the consolidated program, including individuals with disabilities, speech and vision limitations, or limited English proficiency.

(7) The agency of human services shall establish by rule a comprehensive and accessible appeals process, including an opportunity for an individual to request an independent clinical assessment of medical or functional limitations when appealing an eligibility determination, a denial in services, or a reduction in services.

(c)(1) The agency of human services shall implement the program approved by CMS by rule.

(2) Prior to filing proposed rules, the agency shall seek input on the proposed rules from a workgroup that includes providers, beneficiaries, and advocates for beneficiaries.

Sec. 34. GLOBAL COMMITMENT; CHOICES FOR CARE; SCHIP

(a) It is the intent of the general assembly to provide the agency of human services with the authority to renew and implement Vermont's Medicaid Section 1115 Global Commitment to Health ("Global Commitment") waiver or to request a new waiver from the Centers for Medicare and Medicaid Services (CMS) with similar terms and conditions as Global Commitment. It is also the intent of the general assembly to provide the agency with the authority to modify or renew the Choices for Care waiver consistent with the provisions of No. 56 of the Acts of 2005 and to seek a state children's health insurance program (SCHIP) waiver to allow for greater administrative flexibility and simplification, as well as to seek advantageous financial terms similar to those in the Global Commitment waiver. Any waivers sought pursuant to this section shall promote the health care reform goals established in No. 48 of the Acts of 2011, including universal coverage; administrative simplification; integration of health, mental health, and substance abuse; and payment reform.

(b) The secretary of human services or designee may seek to renew the Global Commitment waiver, seek a new Medicaid or SCHIP waiver, modify the Choices for Care waiver, or a combination thereof, to enable the agency to:

(1) Maintain the public managed care entity structure, financial provisions, and flexibility provided in the Global Commitment terms and conditions and extend these provisions and flexibility to the Choices for Care and Dr. Dynasaur programs.

(2) Maintain the waiver terms for special demonstration populations, such as individuals with traumatic brain injury and others currently provided for in Global Commitment, as well as for any special demonstration populations covered and services provided to eligible individuals under Choices for Care.

(3) Eliminate terms and conditions which are outdated or for which state options are now available.

(4) Eliminate Catamount Health Assistance in order to comply with the insurance provisions in this act and in the federal Affordable Care Act.

(5) Obtain federal matching funds for any state financial assistance provided to individuals purchasing insurance through the Vermont health benefit exchange in order to promote seamless health coverage for eligible individuals and to achieve universal coverage, affordability, and administrative simplification. The secretary or designee shall analyze the impacts of offering state financial assistance to individuals with incomes below 350 percent of the federal poverty level.

(6) Ensure a streamlined transition between Medicaid and the Vermont health benefit exchange.

(7) Modify payment mechanisms to ensure that the health coverage provided under any waiver program is consistent with and supportive of the payment reform initiatives established by the Green Mountain Care board.

(c) Any waiver or waivers sought pursuant to this section may be consolidated or filed in conjunction with Vermont's Global Commitment to Health waiver renewal, Choices for Care waiver modifications, SCHIP waiver, or combination thereof. The secretary of human services or designee shall implement the program or programs approved by CMS by rule.

Sec. 34a. Sec. 17 of No. 128 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 17. FEDERAL HEALTH CARE REFORM; DEMONSTRATION
PROGRAMS

(a)(1) Medicare waivers. Upon establishment by the secretary of the U.S. Department of Health and Human Services (HHS) of an advanced practice primary care medical home demonstration program or a community health team demonstration program pursuant to Sec. 3502 of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, the secretary of human services may apply to the secretary of HHS to enable Vermont to include Medicare as a participant in the Blueprint for Health as described in 18 V.S.A. chapter 13 of Title 18.

(2) Upon establishment by the secretary of HHS of a shared savings program pursuant to Sec. 3022 of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education

Reconciliation Act of 2010, Public Law 111-152 or other federal authority established to allow for payment and delivery system reform, the secretary of human services may apply to the secretary of HHS to enable Vermont the state's Medicaid and SCHIP programs, including any waiver programs under Global Commitment to Health or Choices for Care, to participate in the program by establishing engage in payment reform pilot projects as provided for by Sec. 14 of this act activities consistent with the payment reform initiatives established by the Green Mountain Care board pursuant to 18 V.S.A. chapter 220. The chair of the Green Mountain Care board or designee may apply to the secretary of HHS to enable Vermont to advance the payment reform goals established in No. 48 of the Acts of 2011 and consistent with the board's authority.

(b)(1) Medicaid waivers. The intent of this section is to provide the secretary of human services with the authority to pursue Medicaid and SCHIP participation in the Blueprint for Health and new payment reform initiatives established by the Green Mountain Care board through any existing or new waiver.

(2) Upon establishment by the secretary of HHS of a health home demonstration program pursuant to Sec. 3502 of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152; Section 1115 or 2107 of the Social Security Act; or other federal authority, the secretary of human services may apply to the secretary of HHS to include Medicaid or SCHIP as a participant in the Blueprint for Health as described in 18 V.S.A. chapter 13 of Title 18 and other payment reform initiatives established by the Green Mountain Care board pursuant to 18 V.S.A. chapter 220. ~~In the alternative, under Section 1115 of the Social Security Act, the secretary of human services may apply for an amendment to an existing Section 1115 waiver or may include in the renegotiation of the Global Commitment for Health Section 1115 waiver a request to include Medicaid as a participant in the Blueprint for Health as described in chapter 13 of Title 18.~~

Sec. 35. WAIVER UPDATES AND INFORMATION

(a) The secretary of human services or designee shall present information and updates on the waiver proposal to the house committees on appropriations, on human services, and on health care and the senate committees on appropriations and on health and welfare as requested, and no later than January 30, 2013. When the general assembly is not in session, the secretary or designee shall present information and updates to the health access oversight committee upon request. The secretary or designee shall be available to the

health access oversight committee on a monthly basis to provide an update in person or by telephone on the status of waiver planning, application, and negotiations, including updates on the substantive provisions and issues provided for in Secs. 33–34 of this act. If the health access oversight committee elects not to meet in person or by telephone during a month, the secretary or designee shall provide a monthly update by telephone conference call to interested parties and stakeholders, including a time for questions from the public. In addition, the secretary or designee shall provide updates at each meeting of the Medicaid and exchange advisory board and to other advisory committees upon request.

(b) The secretary of human services or designee shall present a transition plan for individuals eligible for or enrolled in the Vermont health access plan, the employer-sponsored insurance premium assistance program, and Catamount Health to the house committees on appropriations, on human services, and on health care and the senate committees on appropriations and on health and welfare by January 15, 2013.

Sec. 35a. WAIVERS; INTENT

It is the intent of the general assembly that the transition from Catamount Health and the Vermont health access plan to the Vermont health benefit exchange with additional subsidies should be accomplished in such a way that it minimizes the financial exposure of low-income Vermonters, including the amounts of their premiums and out-of-pocket costs, and recognizes the need to limit the financial exposure of the state of Vermont.

* * * Health Access Eligibility Unit * * *

Sec. 36. 33 V.S.A. § 401 is amended to read:

§ 401. COMPOSITION OF DEPARTMENT

The department of Vermont health access, created under 3 V.S.A. § 3088, shall consist of the commissioner of Vermont health access, the medical director, ~~a health care eligibility unit~~, and all divisions within the department, including the divisions of managed care; health care reform; the Vermont health benefit exchange; and Medicaid policy, fiscal, and support services.

* * * Technical and Clarifying Changes * * *

Sec. 37. 18 V.S.A. § 701 is amended to read:

§ 701. DEFINITIONS

For the purposes of this chapter:

* * *

(8) "Health benefit plan" shall have the same meaning as health insurance plan in 8 V.S.A. § 4088h.

* * *

(11) "Hospital" shall have the same meaning as in section ~~9456~~ 9451 of this title.

* * *

Sec. 38. 18 V.S.A. § 9391 is amended to read:

§ 9391. NOMINATION AND APPOINTMENT PROCESS

* * *

(b) The committee shall submit to the governor the names of the persons it deems qualified to be appointed to fill the position or positions and the name of any incumbent who declares that he or she wishes to be a candidate to succeed himself or herself.

(c) The governor shall make an appointment to the Green Mountain Care board from the list of qualified candidates submitted pursuant to subsection (b) of this section. The appointment shall be subject to the consent of the senate. The names of candidates submitted and not selected shall remain confidential.

* * *

Sec. 39. Sec. 31(a) of No. 48 of the Acts of 2011 is amended to read:

(a) Notwithstanding the provisions of 18 V.S.A. § 9390(b)(2), no later than June 1, 2011, the governor, the speaker of the house of representatives, and the president pro tempore of the senate shall appoint the members of the Green Mountain Care board nominating committee. The members shall serve until their replacements are appointed pursuant to 18 V.S.A. § 9390 between January 1, 2013 and February 1, 2013, as provided in 3 V.S.A. § 259.

* * * Sports Injuries * * *

Sec. 39a. 16 V.S.A. § 1431(d) is amended to read:

(d) Participation in athletic activity.

(1) A coach shall not permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach has reason to believe that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) A coach shall not permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this

subsection to train or compete with a school athletic team ~~if the athlete has been removed or prohibited from participating in a training session or competition associated with the school athletic team due to symptoms of a concussion or other head injury~~ until the athlete has been examined by and received written permission to participate in athletic activities from a health care provider licensed pursuant to Title 26 and trained in the evaluation and management of concussions and other head injuries.

* * * Rulemaking Authority * * *

Sec. 40. HOSPITAL BUDGET REVIEW RULES

For the purposes of hospital budget reviews pursuant to 18 V.S.A. chapter 221, subchapter 7, the Green Mountain Care board shall apply Rule 7.500 of the department of banking, insurance, securities, and health care administration, as that rule exists on the effective date of this section, until March 1, 2013 or the board's adoption of a permanent rule on hospital budget reviews pursuant to Sec. 40a of this act, whichever is earlier.

Sec. 40a. RULEMAKING

No later than January 1, 2013, the Green Mountain Care board shall adopt rules pursuant to 3 V.S.A. chapter 25 implementing the amendments in this act to 8 V.S.A. § 4062 (insurance rate review) and to 18 V.S.A. chapter 221, subchapters 5 (certificate of need) and 7 (hospital budget review).

* * * Position Transfer * * *

Sec. 40b. TRANSFER OF POSITION

On or before January 1, 2013, one health care administrator position shall be transferred from the department of banking, insurance, securities, and health care administration to the Green Mountain Care board.

* * * Maximizing Federal Funds * * *

Sec. 40c. MAXIMIZING PREMIUM TAX CREDITS AND COST-SHARING SUBSIDIES

No later than January 15, 2013, the secretary of administration or designee shall recommend to the house committees on health care and on ways and means and the senate committees on health and welfare and on finance strategies for maximizing the number of Vermont residents who will be eligible to receive federal premium tax credits or cost-sharing subsidies, or both, in the Vermont health benefit exchange and for maximizing the amount of the federal credits and subsidies that eligible Vermonters will receive.

* * * Health Access Oversight Committee * * *

Sec. 40d. 2 V.S.A. § 852 is amended to read:

§ 852. FUNCTIONS AND DUTIES

(a) The health access oversight committee shall ~~carry on~~ monitor, oversee, and provide a continuing review of ~~the operation of the Medicaid program and all Medicaid waiver programs that may affect the administration and beneficiaries of these programs~~ health care and human services programs in Vermont when the general assembly is not in session.

(b) In conducting its ~~review~~ oversight and in order to fulfill its duties, the committee shall may consult the following:

(1) Consumers and advocacy groups ~~regarding their satisfaction and complaints.~~

(2) Health care providers ~~regarding their satisfaction and complaints.~~

(3) The department of Vermont health access.

(4) The department of banking, insurance, securities, and health care administration.

(5) The department of health.

(6) The department for children and families.

(7) The department of disabilities, aging, and independent living.

(8) The department of mental health.

(9) The agency of human services.

(10) The agency of administration.

(11) The Green Mountain Care board.

(12) The director of health care reform.

~~(6)~~(13) The attorney general.

~~(7)~~(14) The health care ombudsman.

(15) The long-term care ombudsman.

~~(8)~~(16) The Vermont program for quality in health care.

~~(9)~~(17) Any other person or entity as determined by the committee.

(c) The committee shall work with, assist, and advise other committees of the general assembly, members of the executive branch, and the public on matters relating to ~~the state Medicaid program and other state~~ health care and human services programs. Annually, no later than January 15,

the committee shall report its recommendations to the governor and the general assembly.

* * * Repeals * * *

Sec. 41. REPEALS

(a) 8 V.S.A. § 4089b(h) (insurance quality task force) is repealed July 1, 2012.

(b) 18 V.S.A. § 9409a (provider reimbursement survey) is repealed on passage.

(c) 8 V.S.A. § 4080c (safety net) is repealed January 1, 2014, except that plans issued or renewed in 2013 shall remain in effect until their anniversary date in calendar year 2014 to the extent consistent with the provisions of the Affordable Care Act and related guidance and regulations.

(d) Sec. 6 (health access eligibility unit transfer) of No. 48 of the Acts of 2011 is repealed on passage.

(e) 33 V.S.A. chapter 13, subchapter 2 (payment reform pilots) is repealed on passage.

(f) 18 V.S.A. § 4632(a)(7) (DVHA prescribed product report) is repealed on passage.

(g) [Deleted].

(h) 33 V.S.A. chapter 19, subchapter 3 (Vermont Health Access Plan; employer-sponsored insurance assistance) is repealed January 1, 2014, except that current enrollees may continue to receive transitional coverage by the department of Vermont health access as authorized by the Centers on Medicare and Medicaid Services.

(i) 8 V.S.A. §§ 4080a (small group market) and 4080b (nongroup market) are repealed January 1, 2014, except that plans issued or renewed in 2013 shall remain in effect until their anniversary date in calendar year 2014 to the extent consistent with the provisions of the Affordable Care Act and related guidance and regulations.

(j) 8 V.S.A. § 4062d (market security trust) is repealed July 1, 2012.

Sec. 41a. TRANSITIONAL PROVISIONS; IMPLEMENTATION

(a) Except as otherwise provided in subsection (c) of this section, small employers may enroll in health insurance plans offered through the Vermont health benefit exchange beginning at the earliest on October 1, 2013 and at the

latest on the renewal date of any small group plan the employer purchased prior to January 1, 2014.

(b) Except as otherwise provided in subsections (c) and (d) of this section, individuals in the nongroup market may enroll in health insurance plans offered through the Vermont health benefit exchange beginning at the earliest on October 1, 2013 and at the latest on the renewal date of any nongroup plan the individual purchased prior to January 1, 2014, if allowed under federal law.

(c) Notwithstanding Sec. 41(i) of this act, repealing 8 V.S.A. §§ 4080a and 4080b, the department of banking, insurance, securities, and health care administration and the Green Mountain Care board may continue to approve rates and forms for nongroup and small group health insurance plans under the statutes and rules in effect prior to the date of repeal if the Vermont health benefit exchange is not operational by January 1, 2014 and the department of Vermont health access or a health insurer is unable to facilitate enrollment in health benefit plans through another mechanism, including paper enrollment. In the alternative, the department of banking, insurance, securities, and health care administration may allow individuals and small employers to extend coverage under an existing health insurance plan. The department of banking, insurance, securities, and health care administration and the Green Mountain Care board shall maintain their authority pursuant to this subsection until the exchange is able to enroll all qualified individuals and small employers who apply for coverage through the exchange.

(d) Notwithstanding Sec. 41(h) of this act, repealing the Vermont health access plan and employer-sponsored insurance assistance, the department of Vermont health access may continue to provide employer-sponsored insurance assistance and coverage through the Vermont health access plan to eligible individuals beyond the date of repeal if the Vermont health benefit exchange is not operational by January 1, 2014 and the department of Vermont health access or a health insurer is unable to facilitate enrollment in health benefit plans through another mechanism, including paper enrollment. The department of Vermont health access shall maintain its authority to administer these programs until the exchange is able to enroll all qualified applicants who apply for coverage through the exchange.

(e) Notwithstanding the provisions of 8 V.S.A. §§ 4080a(d)(1) and 4080b(d)(1), a health insurer shall not be required to guarantee acceptance of any individual, employee, or dependent on or after January 1, 2014 for a small group plan offered pursuant to 8 V.S.A. § 4080a or a nongroup plan offered pursuant to 8 V.S.A. § 4080b except as required by the department of banking, insurance, securities, and health care administration or the Green Mountain

Care board, or both, pursuant to subsection (c) of this section.

(f) To the extent permitted under the Affordable Care Act, in implementing the Vermont health benefit exchange, it is the intent of the general assembly not to impair the health care coverage provided to Vermonters through collective bargaining agreements entered into prior to January 1, 2013 and in effect on January 1, 2014 until the date that any such collective bargaining agreement relating to such health care coverage terminates.

Sec. 42. EFFECTIVE DATES

(a) Secs. 5 (Green Mountain Care board authority), 5a (bill-back report), 6–11 (unified health care budget), 11a (claims edit standards), 12–14 (Green Mountain Care board duties, health care administration), 23 (hospital budgets), 24 (provider bargaining groups), 25 and 26 (insurance rate reviews), 26a (ombudsman’s report), 27 (payment reform pilot projects), 28 (Blueprint for Health), 28a (Blueprint intent), 29 (HMO reporting requirements), 33–35a (waivers), 36 (health access eligibility unit), 37–39 (technical/clarifying changes), 40b (transfer of position), 40c (maximizing federal funds), 41 (repeals), and 41a (transitional provisions) of this act and this section shall take effect on passage.

(b) Secs. 40 (hospital budget rules) and 40a (rulemaking) of this act shall take effect on passage, provided that in order to comply with the deadlines contained in this act, the Green Mountain Care board may begin the rulemaking process prior to passage.

(c) Secs. 1 and 2 (50 employees or fewer), 2a (qualified health benefit plans), 2b (navigators), and 2c (exchange options) shall take effect on July 1, 2012.

(d) Sec. 30 (VPQHC) shall take effect on July 1, 2013.

(e) Sec. 31 (prohibition on discretionary clauses) shall take effect on January 1, 2013 and shall apply to all policies, contracts, certificates, and agreements renewed, offered, or issued in this state with effective dates on or after such date.

(f)(1) Secs. 32(a), (d), and (e) (prescription drug coverage); 32a and 32b (prescribed products); 39a (sports injuries); and 40d (health access oversight committee) shall take effect on July 1, 2012.

(2) Sec. 32(b) and (c) (prescription drug cost-sharing) shall take effect on October 1, 2012 and shall apply to all health insurance plans and health benefit plans on and after October 1, 2012 on such date as a health insurer issues, offers, or renews the plan, but in no event later than October 1, 2013.

(g) Secs. 3 (merged insurance market) and 4 (grandfathered plans) shall take effect on January 1, 2013, provided that:

(1) the department of banking, insurance, securities, and health care administration and the Green Mountain Care board may adopt rules as needed before that date to ensure that enrollment in the health insurance plans will be available no later than October 1, 2013; and

(2) January 1, 2014 shall be the earliest date that coverage may begin under a plan offered in the merged market.

(h) Secs. 14a–22 (certificates of need) shall take effect on January 1, 2013, and the Green Mountain Care board shall have sole jurisdiction over all applications for new certificates of need and over the administration of all existing certificates of need on and after that date, provided that for applications already in process on that date, the rules and procedures in place at the time the application was filed shall continue to apply until a final decision is made on the application.

Rep. Johnson of South Hero, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Health Care.

The bill, having appeared on the Calendar one day for notice, was taken up, and read the second time.

Pending the question, Shall the bill be amended as recommended by the committee on Health Care? **Rep. Olsen of Jamaica** moved to amend the report of the committee on Health Care as follows:

First: In Sec. 32, 8 V.S.A. § 4089i, in subsection (a), by striking out “or purchased through the I-SaveRx program”

Second: By adding a Sec. 32c to read:

Sec. 32c. I-SaveRx PRESCRIPTION DRUG PROGRAM; REPORT

(a) No later than December 1, 2012, the legislative joint fiscal office shall submit a report to the house committee on health care and the senate committee on health and welfare regarding Vermont’s participation in the I-SaveRx prescription drug program enacted in No. 2 of the Acts of 2005.

(b) The joint fiscal office’s report shall contain an analysis of the total cost to the state of implementing and administering the I-SaveRx program, the total number of participants in the program by year and in the aggregate, and an estimate of the total savings realized by program participants during the program’s operation. The office shall also identify the program’s successes

and failures and provide an assessment of the relative merits to the state of pursuing similar efforts in the future.

Third: In Sec. 41, Repeals, by striking subsection (g) in its entirety and inserting in lieu thereof the following:

(g) No. 2 of the Acts of 2005 (I-SaveRx prescription drug program) is repealed on passage. Notwithstanding any provision of Sec. 2 of No. 2 of the Acts of 2005 to the contrary, repeal of such act shall constitute Vermont's withdrawal from the I-SaveRx agreement and terminate its related cooperative relationship with the state of Illinois.

Fourth: In Sec. 42, Effective Dates, in subsection (a), following “29 (HMO reporting requirements)”, by inserting “, 32c (I-SaveRx report),”

Thereupon, **Rep. Olsen of Jamaica** asked and was granted leave of the House to withdraw his amendment.

Pending the question, Shall the House amend the bill as recommended by the committee on Health Care? **Rep. Olsen of Jamaica** moved to amend the report of the committee on Health Care as follows:

First: By adding a Sec. 3a to read as follows:

Sec. 3a. 33 V.S.A. § 1811 is amended to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

(a) As used in this section:

(1) “Health benefit plan” means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan ~~offered through the Vermont health benefit exchange and~~ issued to an individual or to an employee of a small employer. The term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers’ compensation or similar insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, or other similar insurance coverage in which benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits; long-term care insurance; specific disease or other limited benefit coverage, Medicare supplemental health benefits, Medicare Advantage plans, and other similar benefits excluded under the Affordable Care Act.

* * *

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

(e) No person may provide a health benefit plan to an individual or small employer unless such person is a registered carrier. The commissioner of banking, insurance, securities, and health care administration shall establish, by rule, the minimum financial, marketing, service and other requirements for registration. Such registration shall be effective upon approval by the commissioner and shall remain in effect until revoked or suspended by the commissioner for cause or until withdrawn by the carrier. A carrier may withdraw its registration upon at least six months prior written notice to the commissioner. A registration filed with the commissioner shall be deemed to be approved unless it is disapproved by the commissioner within 30 days of filing.

~~(d)~~(c) A registered carrier shall guarantee acceptance of all individuals, small employers, and employees of small employers, and each dependent of such individuals and employees, for any health benefit plan offered by the carrier.

~~(e)~~(d) A registered carrier shall offer a health benefit plan rate structure which at least differentiates between single person, two person, and family rates.

~~(f)(1)~~(e)(1) A registered carrier shall use a community rating method acceptable to the commissioner of banking, insurance, securities, and health care administration for determining premiums for health benefit plans. Except as provided in subdivision (2) of this subsection, the following risk classification factors are prohibited from use in rating individuals, small employers, or employees of small employers, or the dependents of such individuals or employees:

* * *

~~(g)~~(f) A registered carrier shall file with the commissioner an annual certification by a member of the American Academy of Actuaries of the carrier's compliance with this section. The requirements for certification shall be as the commissioner prescribes by rule.

~~(h)~~(g) A registered carrier shall provide, on forms prescribed by the commissioner, full disclosure to a small employer of all premium rates and any risk classification formulas or factors prior to acceptance of a plan by the small

employer.

~~(i)(h)~~ A registered carrier shall guarantee the rates on a health benefit plan for a minimum of 12 months.

~~(j)(i)~~ The commissioner shall disapprove any rates filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the Patient Protection and Affordable Care Act (Public Law 111-148).

~~(k)(j)~~ The guaranteed acceptance provision of subsection ~~(d)(c)~~ of this section shall not be construed to limit an employer's discretion in contracting with his or her employees for insurance coverage.

Second: By adding a Sec. 3b to read as follows:

Sec. 3b. Sec. 2 of No. 48 of the Acts of 2011 is amended to read:

Sec. 2. STRATEGIC PLAN; UNIVERSAL AND UNIFIED HEALTH SYSTEM

(a) Vermont must begin to plan now for health care reform, including simplified administration processes, payment reform, and delivery reform, in order to have a publicly financed program of universal and unified health care operational after the occurrence of specific events, including the receipt of a waiver from the federal Exchange requirement from the U.S. Department of Health and Human Services. A waiver will be available in 2017 under the provisions of existing law in the Patient Protection and Affordable Care Act (Public Law 111-148) ("Affordable Care Act"), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and may be available in 2014 under the provisions of two bills, H.R. 844 and S.248, introduced in the 112th Congress. In order to begin the planning efforts, the director of health care reform in the agency of administration shall establish a strategic plan, which shall include time lines and allocations of the responsibilities associated with health care system reform, to further the containment of health care costs, to further Vermont's existing health care system reform efforts as described in 3 V.S.A. § 2222a and to further the following:

* * *

(2)(A) As provided in Sec. 4 of this act, no later than ~~November~~ October 1, 2013, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling individuals and ~~small~~ employers with 50 or fewer employees for coverage beginning

January 1, 2014. Beginning January 1, 2014, the commissioner of banking, insurance, securities, and health care administration may require qualified health benefit plans to be sold to individuals and small groups through the Vermont health benefit exchange, provided that the commissioner shall also allow qualified and nonqualified plans that comply with the required provision of the Affordable Care Act to be sold to individuals and small groups outside the exchange. The intent of the general assembly is to establish the Vermont health benefit exchange in a manner such that it may become the foundation for Green Mountain Care.

* * *

(3) ~~As provided in Sec. 4 of this act, no~~ No later than October 1, 2015, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling employers with 100 or fewer employees for coverage beginning January 1, 2016. No later than November October 1, 2016, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling large employers for coverage beginning January 1, 2017.

Third: In Sec. 42, Effective Dates, by adding a subsection (i) to read as follows:

(i) Secs. 3a and 3b of this act shall take effect within 30 days of a finding by the commissioner of banking, insurance, securities, and health care administration, the commissioner of Vermont health access, or the Green Mountain Care board that the average premium for a qualified health benefit plan offered through the Vermont health benefit exchange at any actuarial value exceeds by 10 percent or more the average cost of an actuarially equivalent grandfathered plan.

Pending the question, Shall the bill be amended as recommended by Rep. Olsen of Jamaica? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Olsen of Jamaica? was decided in the negative. Yeas, 45. Nays, 88.

Those who voted in the affirmative are:

Acinapura of Brandon
Batchelor of Derby
Bouchard of Colchester
Branagan of Georgia
Brennan of Colchester
Browning of Arlington

Burditt of West Rutland
Canfield of Fair Haven
Clark of Vergennes
Crawford of Burke
Degree of St. Albans City
Devereux of Mount Holly

Dickinson of St. Albans
Town
Donaghy of Poultney
Donahue of Northfield
Fagan of Rutland City

Greshin of Warren
 Hebert of Vernon
 Helm of Fair Haven
 Higley of Lowell
 Howard of Cambridge
 Hubert of Milton
 Johnson of Canaan
 Koch of Barre Town
 Komline of Dorset
 Krebs of South Hero

Larocque of Barnet
 Lawrence of Lyndon
 Lewis of Derby
 Marcotte of Coventry
 McAllister of Highgate
 McFaun of Barre Town
 McNeil of Rutland Town
 Morrissey of Bennington
 Olsen of Jamaica
 Pearce of Richford

Peaslee of Guildhall
 Perley of Enosburgh
 Savage of Swanton
 Scheuermann of Stowe
 Shaw of Pittsford
 Smith of New Haven
 Strong of Albany
 Turner of Milton
 Winters of Williamstown

Those who voted in the negative are:

Ancel of Calais
 Andrews of Rutland City
 Aswad of Burlington
 Atkins of Winooski
 Bartholomew of Hartland
 Bissonnette of Winooski
 Bohi of Hartford
 Botzow of Pownal
 Burke of Brattleboro
 Buxton of Tunbridge
 Campion of Bennington
 Christie of Hartford
 Clarkson of Woodstock
 Condon of Colchester
 Conquest of Newbury
 Consejo of Sheldon
 Copeland-Hanzas of
 Bradford
 Corcoran of Bennington
 Courcelle of Rutland City
 Dakin of Chester
 Davis of Washington
 Donovan of Burlington
 Ellis of Waterbury
 Emmons of Springfield
 Evans of Essex
 Fisher of Lincoln
 Frank of Underhill
 French of Shrewsbury
 French of Randolph

Gilbert of Fairfax
 Grad of Moretown
 Haas of Rochester
 Head of South Burlington
 Heath of Westford
 Hooper of Montpelier
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Keenan of St. Albans City
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Krowinski of Burlington
 Kupersmith of South
 Burlington
 Lanpher of Vergennes
 Lenes of Shelburne
 Lippert of Hinesburg
 Lorber of Burlington
 Macaig of Williston
 Malcolm of Pawlet
 Manwaring of Wilmington
 Marek of Newfane
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 Mook of Bennington
 Moran of Wardsboro
 Mrowicki of Putney
 Munger of South Burlington

Nuovo of Middlebury
 O'Brien of Richmond
 Partridge of Windham
 Pearson of Burlington
 Peltz of Woodbury
 Poirier of Barre City
 Potter of Clarendon
 Ralston of Middlebury
 Ram of Burlington
 Russell of Rutland City
 Shand of Weathersfield
 Sharpe of Bristol
 Spengler of Colchester
 Stevens of Waterbury
 Stevens of Shoreham
 Stuart of Brattleboro
 Sweaney of Windsor
 Taylor of Barre City
 Till of Jericho
 Toll of Danville
 Townsend of Randolph
 Trieber of Rockingham
 Waite-Simpson of Essex
 Webb of Shelburne
 Wilson of Manchester
 Wizowaty of Burlington
 Woodward of Johnson
 Yantachka of Charlotte
 Young of Glover
 Zagar of Barnard

Those members absent with leave of the House and not voting are:

Cheney of Norwich
 Deen of Westminster
 Eckhardt of Chittenden
 Edwards of Brattleboro

Howrigan of Fairfield
 Kilmartin of Newport City
 Lewis of Berlin
 Martin of Springfield

Miller of Shaftsbury
 Myers of Essex
 O'Sullivan of Burlington
 Pugh of South Burlington

Reis of St. Johnsbury
Smith of Morristown

South of St. Johnsbury
Wright of Burlington

Recess

At twelve o'clock and twenty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At one o'clock and twenty-five minutes in the afternoon, the Speaker called the House to order.

Rules Suspended to Interrupt the Orders of the Day

Rep. Savage of Swanton moved to suspend the rules to interrupt the Orders of the Day to permit consideration of JRH 24, which was agreed to.

Joint Resolution Adopted

J.R.H. 24

Joint resolution strongly supporting continuing and enhancing the mutually beneficial bilateral economic and trade relationship between the state of Vermont and Canada

Offered by: All Members of the House

Whereas, the United States and Canada share a 5,500-mile border, the world's longest that is not militarized, and each nation's foundation is based upon common democratic ideals and principles, and

Whereas, the relationship between Canada and the United States is unique in the world, and the two countries have a shared prosperity fostered by two-way investment and jobs, and

Whereas, this special relationship has spanned more than two centuries, and the two countries have developed one of the most successful records of international cooperation in the modern world, including a large and comprehensive trade relationship, and

Whereas, statistics from 2010 detail the importance of the close ties of both the United States and Vermont with Canada, and

Whereas, over eight million American jobs were dependent on trade with Canada, including 19,300 in Vermont, and

Whereas, Vermont's largest export market, by far, was Canada, representing exports of \$1.3 billion, and

Whereas, Canadian tourists flocked to Vermont, making 723,600 visits and contributing \$146 million to the local economy, and

Whereas, militarily, Canada and the United States are both members of the North Atlantic Treaty Organization, and our nations' armed forces have fought alongside each other in most major conflicts since World War II, including the Korean War, the Gulf War, the Kosovo War, and, most recently, the war in Afghanistan, and

Whereas, American defense arrangements with Canada are more extensive than with any other country, and Canada was a major ally of the United States during the Cold War, and

Whereas, the North American Aerospace Defense Command (NORAD) was founded in May 1958 when the United States and Canada signed a formal agreement providing for bilateral aerospace warning and control of North American airspace, and the NORAD agreement's 2006 renewal added a maritime warning mission, and

Whereas, since September 11, 2001, the strong United States–Canada military relationship has helped to keep the United States safe from further terrorist attacks, and Canada is now, more than ever, a key military ally of our nation, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly recognizes and celebrates the strength of the Canada–Vermont relationship, and be it further

Resolved: That the General Assembly strongly supports the commitment of the state of Vermont to working together with Canada to enhance our mutually beneficial bilateral economic and trade relationships and to ensure many more years of cooperation, friendship, and goodwill, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Consul General of Canada to New England, Patrick Binns, in Boston and the United States Consul General in Montreal, Andrew Parker.

Was taken up and adopted on the part of the House.

Recess

At one o'clock and forty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Bill Amended and
Consideration Interrupted by Recess**

H. 559

Consideration resumed on House bill, entitled

An act relating to health care reform implementation;

Pending the recurring question, Shall the House amend the bill as recommended by the committee on Health Care? **Reps. Higley of Lowell and Clark of Vergennes** moved to amend the report of the committee on Health Care as follows:

First: In Sec. 3, 33 V.S.A. § 1811, in the first sentence of subdivision (a)(1), following “organization health benefit plan”, by striking out “offered through the Vermont health benefit exchange and”

Second: In Sec. 3, 33 V.S.A. § 1811, by striking out subsection (b) in its entirety and relettering the remaining subsections to be alphabetically correct

Third: In Sec. 3, 33 V.S.A. § 1811, in subsection (k), by striking out “subsection (d)” and inserting in lieu thereof “subsection (c)”

Fourth: By adding a Sec. 3a to read as follows:

Sec. 3a. Sec. 2 of No. 48 of the Acts of 2011 is amended to read:

Sec. 2. STRATEGIC PLAN; UNIVERSAL AND UNIFIED HEALTH
SYSTEM

(a) Vermont must begin to plan now for health care reform, including simplified administration processes, payment reform, and delivery reform, in order to have a publicly financed program of universal and unified health care operational after the occurrence of specific events, including the receipt of a waiver from the federal Exchange requirement from the U.S. Department of Health and Human Services. A waiver will be available in 2017 under the provisions of existing law in the Patient Protection and Affordable Care Act (Public Law 111-148) (“Affordable Care Act”), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and may be available in 2014 under the provisions of two bills, H.R. 844 and S.248, introduced in the 112th Congress. In order to begin the planning efforts, the director of health care reform in the agency of administration shall establish a strategic plan, which shall include time lines and allocations of the responsibilities associated with health care system reform, to further the containment of health care costs, to further Vermont’s existing health care

system reform efforts as described in 3 V.S.A. § 2222a and to further the following:

* * *

(2)(A) As provided in Sec. 4 of this act, no later than ~~November~~ October 1, 2013, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling individuals and ~~small~~ employers with 50 or fewer employees for coverage beginning January 1, 2014. Beginning January 1, 2014, the commissioner of banking, insurance, securities, and health care administration may require qualified health benefit plans to be sold to individuals and small groups through the Vermont health benefit exchange, provided that the commissioner shall also allow qualified and nonqualified plans that comply with the required provision of the Affordable Care Act to be sold to individuals and small groups outside the exchange. The intent of the general assembly is to establish the Vermont health benefit exchange in a manner such that it may become the foundation for Green Mountain Care.

* * *

(3) ~~As provided in Sec. 4 of this act, no~~ No later than October 1, 2015, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall make plans available to employers with 100 or fewer employees for coverage beginning January 1, 2016. No later than November ~~October 1, 2016, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling~~ make plans available to large employers for coverage beginning January 1, 2017.

* * *

Fifth: In Sec. 41a (transitional provisions), by striking out subsection (c) in its entirety; in subsection (e), following “8 V.S.A. § 4080b”, by striking out “except as required by the department of banking, insurance, securities, and health care administration or the Green Mountain Care board, or both, pursuant to subsection (c) of this section”; and by relettering the remaining subsections to be alphabetically correct

Sixth: In Sec. 42, Effective Dates, in subsection (g), following “Secs. 3 (merged insurance markets)”, by inserting “, 3a (strategic plan).”

Thereupon, **Rep. Marek of Newfane** asked that the question be divided and the first, second, third and the fourth subsection (a) and 2(A) be voted on first.

Rep. Marek of Newfane raised a Point of Order that the amendment was in violation of Rule 77, which Point of Order the Speaker ruled not well taken in

that the Olsen amendment has a “trigger” provision that is not in the Higley amendment.

Thereupon, **Rep. Marek of Newfane** withdrew his request for a division vote.

Pending the question, Shall the bill be amended as recommended by Reps. Higley of Lowell and Clark of Vergennes? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Reps. Higley of Lowell and Clark of Vergennes ? was decided in the negative. Yeas, 57. Nays, 80.

Those who voted in the affirmative are:

Acinapura of Brandon	Greshin of Warren	Myers of Essex
Andrews of Rutland City	Hebert of Vernon	Olsen of Jamaica
Batchelor of Derby	Helm of Fair Haven	Pearce of Richford
Bouchard of Colchester	Higley of Lowell	Peaslee of Guildhall
Branagan of Georgia	Howard of Cambridge	Perley of Enosburgh
Brennan of Colchester	Hubert of Milton *	Ralston of Middlebury
Browning of Arlington	Johnson of Canaan	Savage of Swanton
Burditt of West Rutland	Kilmartin of Newport City	Scheuermann of Stowe
Canfield of Fair Haven	Koch of Barre Town	Shaw of Pittsford
Clark of Vergennes	Komline of Dorset	Smith of New Haven
Condon of Colchester	Larocque of Barnet	Stevens of Shoreham
Corcoran of Bennington	Lawrence of Lyndon	Till of Jericho
Crawford of Burke	Lewis of Berlin	Toll of Danville
Degree of St. Albans City *	Lewis of Derby	Townsend of Randolph
Devereux of Mount Holly	Marcotte of Coventry	Trieber of Rockingham
Dickinson of St. Albans	McAllister of Highgate	Turner of Milton *
Town	McFaun of Barre Town	Winters of Williamstown
Donaghy of Poultney	McNeil of Rutland Town	Wright of Burlington
Donahue of Northfield *	Miller of Shaftsbury	
Fagan of Rutland City	Morrissey of Bennington	

Those who voted in the negative are:

Ancel of Calais	Consejo of Sheldon	French of Randolph
Aswad of Burlington	Copeland-Hanzas of	Gilbert of Fairfax
Atkins of Winooski	Bradford	Grad of Moretown
Bartholomew of Hartland	Courcelle of Rutland City	Haas of Rochester
Bissonnette of Winooski	Dakin of Chester	Head of South Burlington
Bohi of Hartford	Davis of Washington	Heath of Westford
Botzow of Pownal	Donovan of Burlington	Hooper of Montpelier
Burke of Brattleboro	Ellis of Waterbury	Howrigan of Fairfield
Campion of Bennington	Evans of Essex	Jerman of Essex
Christie of Hartford	Fisher of Lincoln	Jewett of Ripton
Clarkson of Woodstock	Frank of Underhill	
Conquest of Newbury	French of Shrewsbury	

Johnson of South Hero	Marek of Newfane	Russell of Rutland City
Keenan of St. Albans City	Martin of Wolcott	Shand of Weathersfield
Kitzmiller of Montpelier	Masland of Thetford	Sharpe of Bristol
Klein of East Montpelier	McCullough of Williston	Spengler of Colchester
Krebs of South Hero	Mook of Bennington	Stevens of Waterbury
Krowinski of Burlington	Moran of Wardsboro	Stuart of Brattleboro
Kupersmith of South Burlington	Mrowicki of Putney *	Sweaney of Windsor
Lanpher of Vergennes	Munger of South Burlington	Taylor of Barre City
Lenes of Shelburne	Nuovo of Middlebury	Waite-Simpson of Essex
Leriche of Hardwick	O'Brien of Richmond	Webb of Shelburne
Lippert of Hinesburg	Partridge of Windham	Wilson of Manchester
Lorber of Burlington	Pearson of Burlington *	Wizowaty of Burlington
Macaig of Williston	Peltz of Woodbury	Woodward of Johnson
Malcolm of Pawlet	Poirier of Barre City	Yantachka of Charlotte
Manwaring of Wilmington	Potter of Clarendon	Young of Glover
	Ram of Burlington	Zagar of Barnard

Those members absent with leave of the House and not voting are:

Buxton of Tunbridge	Edwards of Brattleboro	Pugh of South Burlington
Cheney of Norwich	Emmons of Springfield	Reis of St. Johnsbury
Deen of Westminster	Martin of Springfield	South of St. Johnsbury
Eckhardt of Chittenden	O'Sullivan of Burlington	Strong of Albany

Rep. Degree of St. Albans City explained his vote as follows:

“Mr. Speaker:

I vote yes because I was elected to represent the people of St. Albans City, not to make choices on their behalf or decide from on high what is or is not best for them.”

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

I support this amendment. Many Vermonters are afraid of our health care reform planning, and rightfully so, because we can't give them answers about costs or benefits. If we believe in what the exchange can do for us, it is worth the time to allow it to sell itself by showing it in action before mandating its use. Once trusted, it can be expanded far more rapidly.”

Rep. French of Shrewsbury explained his vote as follows:

“Mr. Speaker:

Tempting as it is to support this amendment as an exercise in giving Vermonters more choice, I vote no. There are many times personal choice gives way for the public good. We don't get to choose whether or not to have

liability insurance in order to drive on our public highways. The upside to our health care reform effort is huge. Lets give it a fair chance.”

Rep. Hubert of Milton explained his vote as follows:

“Mr. Speaker:

I vote yes as it should be my right not the state’s if my store should buy inside or out of the exchange.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

I voted no as this amendment would keep us stuck in the status quo that doesn’t work for all Vermonters. I vote to move us forward towards a more equitable health care future for all Vermonters.”

Rep. Pearson of Burlington explained his vote as follows:

“Mr. Speaker:

I voted against this amendment for two reasons: we need to make health care more affordable and we need to shed the connection between health insurance and employment. Within the Affordable Care Act the only way to accomplish these goals is by having everyone inside the exchange.

Plus, we need people in there fast so that when we apply for Federal waivers we demonstrate our need for Fed tax credits – therefore, ultimately making Green Mountain Care as affordable as possible.”

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

Allowing an exchange to be a robust market place where individuals and businesses may purchase health care coverage is consistent with the Federal Health Care Reform of 2010. Vermont should create an exchange that encourages everyone to purchase in this marketplace without forcing them into an untested system with few details regarding costs and benefits. It’s about giving Vermonters the choice to decide what is best for them instead of forcing it on them. Keeping their current health insurance coverage would provide stability and should be an option for all.”

Pending the question, Shall the House amend the bill as recommended by the committee on Health Care? **Rep. Browning of Arlington** moved to amend the report of the committee on Health Care as follows:

First: By adding a Sec. 39b to read:

Sec. 39b. 33 V.S.A. chapter 19, subchapter 9 is added to read:

Subchapter 9. Medical Debt Loan Fund

§ 2091. MEDICAL DEBT LOAN FUND

(a) The medical debt loan fund is established in the state treasury as a special fund to finance zero-interest loans to individuals experiencing extreme financial hardship as the direct result of medical debt.

(b) Into the fund shall be deposited:

(1) loan payments collected by the director of economic opportunity pursuant to subsection 2092(b) of this title;

(2) transfers or appropriations from the general fund authorized by the general assembly;

(3) to the extent authorized under federal law, federal funds for Medicaid, Medicare, and the Vermont health benefit exchange established in chapter 18, subchapter 1 of this title; and

(4) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute or by rule.

(c) The fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the fund and any remaining balance shall be retained in the fund. The department shall maintain records indicating the amount of money in the fund at any time.

(d) All monies received by or generated to the fund shall be used only for:

(1) payments to health care providers; and

(2) zero-interest loans to individuals experiencing extreme financial hardship as the direct result of medical debt.

Second: By adding a Sec. 39c to read:

Sec. 39c. 3 V.S.A. § 3903a is added to read:

§ 3903a. MEDICAL DEBT; PAYMENTS; LOANS

(a) Not later than January 1, 2013, the director of economic opportunity, in consultation with the commissioner of Vermont health access, shall establish a loan program to be administered by the designated community services agencies established under section 3903 of this title. The purpose of the loans shall be to provide emergency assistance to individuals whose medical debt has resulted in extreme financial hardship. The loans shall be used to assist individuals with meeting immediate and urgent individual and family needs.

(b) Loans shall be available only to Vermont residents, and recipients of the loans shall not be charged interest. The loan terms and conditions as well as the program's eligibility criteria shall be established by the director of economic opportunity in consultation with the commissioner of Vermont health access and shall be consistent with the amount of money available in the medical debt loan fund established in 33 V.S.A. § 2091. The director shall establish criteria for repayment of loans, which shall include a provision specifying that the amount of the repayment due in any year shall be withheld pursuant to the provisions of 32 V.S.A. chapter 151, subchapter 12 from any tax refund to which a loan recipient is entitled in that year.

(c) The director shall develop a process by which the funds provided to loan recipients may be paid directly to an applicable health care provider or providers in the full amount of a recipient's outstanding medical debt.

(d) Beginning December 1, 2014, each community services agency shall report annually to the director of economic opportunity and the commissioner of Vermont health access the status of the loans issued under this section, as well as any other information deemed relevant by the director and the commissioner. The director and the commissioner shall aggregate such information and report it to the governor and the general assembly not later than January 1 of each year beginning in 2014.

Third: In Sec. 42, Effective Dates, in subdivision (f)(1), following "39a (sports injuries);", by inserting "Secs. 39b and 39c (medical debt loan fund);"

Thereupon, **Rep. Browning of Arlington** asked and was granted leave of the House to withdraw her amendment.

Pending the question, Shall the House amend the bill as recommended by the committee on Health Care? **Rep. Fagan of Rutland City** moved to amend the report of the committee on Health Care as follows:

First: By adding a Sec. 41b to read as follows:

Sec. 41b. Sec. 9 of No. 48 of the Acts of 2011 is amended to read:

Sec. 9. FINANCING PLANS

(a) The secretary of administration or designee shall recommend two plans for sustainable financing to the house committees on health care and on ways and means and the senate committees on health and welfare and on finance no later than ~~January 15, 2013~~ September 15, 2012.

* * *

Second: In Sec. 42, Effective Dates, in subsection (a), by striking out “41 (repeals), and 41a (transitional provisions) of this act” and inserting in lieu thereof “41 (repeals), 41a (transitional provisions), and 41b (financing plans) of this act”

Pending the question, Shall the bill be amended as recommended by Rep. Fagan of Rutland City? **Rep. Fagan of Rutland City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Fagan of Rutland City? was decided in the negative. Yeas, 49. Nays, 86.

Those who voted in the affirmative are:

Acinapura of Brandon	Fagan of Rutland City	McAllister of Highgate
Batchelor of Derby	Greshin of Warren	McNeil of Rutland Town
Bouchard of Colchester	Hebert of Vernon	Morrissey of Bennington
Branagan of Georgia	Helm of Fair Haven	Myers of Essex
Brennan of Colchester	Higley of Lowell	Olsen of Jamaica
Browning of Arlington	Howard of Cambridge	Pearce of Richford
Burditt of West Rutland *	Hubert of Milton	Peaslee of Guildhall
Canfield of Fair Haven	Johnson of Canaan	Perley of Enosburgh
Clark of Vergennes	Kilmartin of Newport City	Savage of Swanton *
Consejo of Sheldon	Koch of Barre Town	Scheuermann of Stowe
Crawford of Burke	Komline of Dorset	Shaw of Pittsford
Degree of St. Albans City	Krebs of South Hero	Smith of New Haven
Devereux of Mount Holly	Larocque of Barnet	Till of Jericho
Dickinson of St. Albans Town	Lawrence of Lyndon	Townsend of Randolph
Donaghy of Poultney	Lewis of Berlin	Turner of Milton
Donahue of Northfield	Lewis of Derby	Winters of Williamstown
	Marcotte of Coventry	

Those who voted in the negative are:

Ancel of Calais	Copeland-Hanzas of	Haas of Rochester
Andrews of Rutland City	Bradford	Head of South Burlington
Aswad of Burlington	Corcoran of Bennington	Heath of Westford
Atkins of Winooski	Courcelle of Rutland City	Hooper of Montpelier
Bartholomew of Hartland	Dakin of Chester	Howrigan of Fairfield
Bissonnette of Winooski	Davis of Washington	Jerman of Essex
Bohi of Hartford	Donovan of Burlington	Jewett of Ripton
Botzow of Pownal	Ellis of Waterbury	Johnson of South Hero
Burke of Brattleboro	Evans of Essex	Keenan of St. Albans City
Campion of Bennington	Fisher of Lincoln	Kitzmiller of Montpelier
Christie of Hartford	Frank of Underhill	Klein of East Montpelier
Clarkson of Woodstock	French of Shrewsbury *	Krowinski of Burlington
Condon of Colchester	French of Randolph	Kupersmith of South
Conquest of Newbury	Gilbert of Fairfax	Burlington
	Grad of Moretown	Lanpher of Vergennes

Lenes of Shelburne	Mrowicki of Putney	Stevens of Waterbury
Leriche of Hardwick	Munger of South Burlington	Stevens of Shoreham
Lippert of Hinesburg	Nuovo of Middlebury	Stuart of Brattleboro
Lorber of Burlington	O'Brien of Richmond	Sweaney of Windsor
Macaig of Williston	Partridge of Windham	Taylor of Barre City
Malcolm of Pawlet	Pearson of Burlington	Toll of Danville
Manwaring of Wilmington	Peltz of Woodbury	Trieber of Rockingham
Marek of Newfane	Poirier of Barre City	Waite-Simpson of Essex
Martin of Wolcott	Potter of Clarendon	Webb of Shelburne
Masland of Thetford	Ralston of Middlebury	Wilson of Manchester
McCullough of Williston	Ram of Burlington	Wizowaty of Burlington
McFaun of Barre Town	Russell of Rutland City	Wright of Burlington
Miller of Shaftsbury	Shand of Weathersfield	Yantachka of Charlotte
Mook of Bennington	Sharpe of Bristol	Young of Glover
Moran of Wardsboro	Spengler of Colchester	

Those members absent with leave of the House and not voting are:

Buxton of Tunbridge	Emmons of Springfield	South of St. Johnsbury
Cheney of Norwich	Martin of Springfield	Strong of Albany
Deen of Westminster	O'Sullivan of Burlington	Woodward of Johnson
Eckhardt of Chittenden	Pugh of South Burlington	Zagar of Barnard
Edwards of Brattleboro	Reis of St. Johnsbury	

Rep. Burditt of West Rutland explained his vote as follows:

“Mr. Speaker:

The members from Lincoln and Newfane were right. It is a political move to move the finance date to September. It was also a political move not to! I support this amendment because it put the finance issues of health care reform in front of the people – where it should be!”

Rep. French of Shrewsbury explained his vote as follows:

“Mr. Speaker:

If someone asked for the cost of a 6,000ft² house to be built, you might be wise to wait until the architect had finished the plans and all contractors had weighted in before answering.”

Rep. Savage of Swanton explained his vote as follows:

“Mr. Speaker:

In an effort to allow for transparency in the Governors Healthcare experiment, we are disappointed that the Administration is unwilling to provide the critical information about the financing of the new Health Care system prior to the next election.

This may be the only time that Vermonters have an opportunity to weigh in on this very serious experiment with Vermonters lives.”

Pending the question, Shall the House amend the bill as recommended by the committee on Health Care? **Rep. Donahue of Northfield** moved to amend the report of the committee on Health Care as follows:

First: By adding a Sec. 11b to read as follows:

Sec. 11b. 18 V.S.A. chapter 221, subchapter 8 is added to read:

Subchapter 8. Mental Health and Substance Abuse Treatment

Quality Assurance

§ 9461. QUALITY INDICATORS

(a) The department of banking, insurance, securities, and health care administration shall develop performance quality indicators to evaluate and ensure that health insurers, including managed care organizations that contract with health insurers to administer the insurers’ mental health benefits, comply with the provisions of 8 V.S.A. § 4089b and related rules.

(b) The departments of health and of mental health shall develop clinical and performance quality measures to evaluate and ensure that health care professionals and health care facilities in Vermont provide high quality mental health and substance abuse treatment services to their patients.

§ 9462. QUALITY IMPROVEMENT PROJECTS

In addition to reviewing mental health and substance abuse treatment data pursuant to subdivision 9375(b)(12) of this title, the Green Mountain Care board shall consider the results of any quality improvement projects not otherwise confidential or privileged undertaken by managed care organizations for mental health and substance abuse care and treatment pursuant to 8 V.S.A. § 4089b(d)(1)(B)(vii) and subsection 9414(i) of this title.

Second: In Sec. 12, 18 V.S.A. § 9375(b), by adding a subdivision (12) to read as follows:

(12) Review data regarding mental health and substance abuse treatment reported to the department of banking, insurance, securities, and health care administration pursuant to 8 V.S.A. § 4089b(g)(1)(G) and discuss such information, as appropriate, with the mental health technical advisory group established pursuant to subdivision 9374(e)(2) of this title.

Third: In Sec. 42, Effective Dates, by adding a subsection (i) to read as follows:

(i) Sec. 11b (mental health and substance abuse quality assurance) shall take effect on July 1, 2012.

Which was agreed to.

Pending the question, Shall the House amend the bill as recommended by the committee on Health Care, as amended? **Rep. Poirier of Barre City** asked that the question be divided and Sec. 31 be voted on first.

Pending the question, Shall the House amend the report of the committee on Health Care in Sec. 31? **Rep. Poirier of Barre City** demanded the yeas and nays, which demand was sustained by the Constitutional number.

Pending the call of the roll, the Speaker declared a recess.

Recess

At five o'clock and thirty-five minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At five o'clock and forty-five minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended and Thrid Reading Ordered

H. 559

Consideration resumed on House bill, entitled

An act relating to health care reform implementation;

Pending the call of the roll, **Rep. Poirier of Barre City** moved that Sec. 31 of the report of the committee on Health Care be amended as follows:

In Sec. 31, 8 V.S.A. § 4062f, in subsection (a), by striking out the last sentence in its entirety and inserting in lieu thereof "Nothing in this section shall be construed to impose any requirement or duty on any person other than a health insurer or an insurer offering disability income protection coverage or life insurance."

Which was agreed to.

Pending the question, Shall the bill be amended as recommended by Rep. Poirier in Section 31, as amended? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Poirier in Section 31, as amended? was decided in the affirmative. Yeas, 133. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon	Greshin of Warren	Morrissey of Bennington
Ancel of Calais	Haas of Rochester	Mrowicki of Putney
Andrews of Rutland City	Head of South Burlington	Munger of South Burlington
Atkins of Winooski	Hebert of Vernon	Myers of Essex
Bartholomew of Hartland	Helm of Fair Haven	Nuovo of Middlebury
Batchelor of Derby	Hooper of Montpelier	O'Brien of Richmond
Bissonnette of Winooski	Howard of Cambridge	Olsen of Jamaica
Bohi of Hartford	Howrigan of Fairfield	Partridge of Windham
Botzow of Pownal	Hubert of Milton	Pearce of Richford
Bouchard of Colchester	Jerman of Essex	Pearson of Burlington
Branagan of Georgia	Jewett of Ripton	Peaslee of Guildhall
Brennan of Colchester	Johnson of South Hero	Peltz of Woodbury
Browning of Arlington	Johnson of Canaan	Perley of Enosburgh
Burditt of West Rutland	Keenan of St. Albans City	Poirier of Barre City
Burke of Brattleboro	Kilmartin of Newport City	Potter of Clarendon
Campion of Bennington	Kitzmiller of Montpelier	Ralston of Middlebury
Canfield of Fair Haven	Klein of East Montpelier	Ram of Burlington
Christie of Hartford	Koch of Barre Town	Russell of Rutland City
Clark of Vergennes	Komline of Dorset	Savage of Swanton
Clarkson of Woodstock	Krebs of South Hero	Scheuermann of Stowe
Conquest of Newbury	Krowinski of Burlington	Shand of Weathersfield
Consejo of Sheldon	Kupersmith of South	Sharpe of Bristol
Copeland-Hanzas of	Burlington	Shaw of Pittsford
Bradford	Lanpher of Vergennes	Smith of New Haven
Corcoran of Bennington	Larocque of Barnet	South of St. Johnsbury
Courcelle of Rutland City	Lawrence of Lyndon	Spengler of Colchester
Crawford of Burke	Lenes of Shelburne	Stevens of Waterbury
Dakin of Chester	Leriche of Hardwick	Stevens of Shoreham
Davis of Washington	Lewis of Berlin	Stuart of Brattleboro
Degree of St. Albans City	Lewis of Derby	Sweaney of Windsor
Devereux of Mount Holly	Lippert of Hinesburg	Till of Jericho
Dickinson of St. Albans	Lorber of Burlington	Toll of Danville
Town	Macaig of Williston	Townsend of Randolph
Donaghy of Poultney	Malcolm of Pawlet	Trieber of Rockingham
Donahue of Northfield	Manwaring of Wilmington	Turner of Milton
Donovan of Burlington	Marcotte of Coventry	Waite-Simpson of Essex
Ellis of Waterbury	Marek of Newfane	Webb of Shelburne
Emmons of Springfield	Martin of Wolcott	Wilson of Manchester
Evans of Essex	Masland of Thetford	Winters of Williamstown
Fagan of Rutland City	McAllister of Highgate	Wizowaty of Burlington
Fisher of Lincoln	McCullough of Williston	Woodward of Johnson
Frank of Underhill	McFaun of Barre Town	Wright of Burlington
French of Shrewsbury	McNeil of Rutland Town	Yantachka of Charlotte
French of Randolph	Miller of Shaftsbury	Young of Glover
Gilbert of Fairfax	Mook of Bennington	
Grad of Moretown	Moran of Wardsboro *	

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Edwards of Brattleboro	Reis of St. Johnsbury
Buxton of Tunbridge	Heath of Westford	Strong of Albany
Cheney of Norwich	Higley of Lowell	Taylor of Barre City
Condon of Colchester	Martin of Springfield	Zagar of Barnard
Deen of Westminster	O'Sullivan of Burlington	
Eckhardt of Chittenden	Pugh of South Burlington	

Rep. Moran of Wardsboro explained his vote as follows:

“Mr. Speaker:

Prohibition of a discretionary clause is basic consumer protection. Any provision giving one party to a contract the power to interpret that contract should be ruled null and void .”

Thereupon, the recurring question, Shall the bill be amended as recommended by the committee on Health Care, as amended, in Secs. 1-32 and Sec. 33 and Sec. 42? was agreed.

Pending the question, Shall the bill be read a third time? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 81. Nays, 41.

Those who voted in the affirmative are:

Ancel of Calais	Ellis of Waterbury	Krebs of South Hero
Andrews of Rutland City	Emmons of Springfield	Krowinski of Burlington
Bartholomew of Hartland	Evans of Essex	Kupersmith of South Burlington
Bissonnette of Winooski	Fisher of Lincoln	Lanpher of Vergennes
Bohi of Hartford	Frank of Underhill	Lenes of Shelburne
Botzow of Pownal	French of Randolph	Lippert of Hinesburg
Browning of Arlington	Gilbert of Fairfax	Lorber of Burlington
Burke of Brattleboro	Grad of Moretown	Macaig of Williston
Campion of Bennington	Greshin of Warren	Malcolm of Pawlet
Christie of Hartford	Haas of Rochester	Marek of Newfane *
Clarkson of Woodstock	Head of South Burlington	Martin of Wolcott
Consejo of Sheldon	Hooper of Montpelier	Masland of Thetford
Copeland-Hanzas of Bradford *	Howrigan of Fairfield	McCullough of Williston
Courcelle of Rutland City	Jerman of Essex	Miller of Shaftsbury
Dakin of Chester	Jewett of Ripton	Mook of Bennington
Davis of Washington	Johnson of South Hero	Moran of Wardsboro
Donovan of Burlington	Kitzmiller of Montpelier	
	Klein of East Montpelier	

Mrowicki of Putney *	Russell of Rutland City	Toll of Danville
Munger of South Burlington	Shand of Weathersfield	Trieber of Rockingham
Nuovo of Middlebury	Sharpe of Bristol	Waite-Simpson of Essex
O'Brien of Richmond	Spengler of Colchester	Webb of Shelburne
Partridge of Windham	Stevens of Waterbury	Wilson of Manchester
Peltz of Woodbury *	Stevens of Shoreham	Wizowaty of Burlington
Poirier of Barre City	Stuart of Brattleboro	Woodward of Johnson
Potter of Clarendon	Sweeney of Windsor	Wright of Burlington
Ralston of Middlebury	Taylor of Barre City	Yantachka of Charlotte
Ram of Burlington	Till of Jericho	Young of Glover

Those who voted in the negative are:

Acinapura of Brandon	Donaghy of Poultney	Lewis of Derby
Batchelor of Derby *	Donahue of Northfield	Marcotte of Coventry
Bouchard of Colchester	Fagan of Rutland City	McAllister of Highgate
Branagan of Georgia *	Hebert of Vernon	McFaun of Barre Town
Brennan of Colchester	Helm of Fair Haven	McNeil of Rutland Town
Burditt of West Rutland	Howard of Cambridge	Morrissey of Bennington
Canfield of Fair Haven	Hubert of Milton	Myers of Essex
Clark of Vergennes *	Johnson of Canaan	Olsen of Jamaica
Condon of Colchester	Kilmartin of Newport City	Pearce of Richford
Corcoran of Bennington	Koch of Barre Town *	Peaslee of Guildhall
Crawford of Burke	Komline of Dorset	Perley of Enosburgh
Degree of St. Albans City	Larocque of Barnet	Savage of Swanton
Dickinson of St. Albans	Lawrence of Lyndon	Shaw of Pittsford
Town *	Lewis of Berlin	Smith of New Haven *

Those members absent with leave of the House and not voting are:

Aswad of Burlington	French of Shrewsbury	Pugh of South Burlington
Atkins of Winooski	Heath of Westford	Reis of St. Johnsbury
Buxton of Tunbridge	Higley of Lowell	Scheuermann of Stowe
Cheney of Norwich	Keenan of St. Albans City	South of St. Johnsbury
Conquest of Newbury	Leriche of Hardwick	Strong of Albany
Deen of Westminster	Manwaring of Wilmington	Townsend of Randolph
Devereux of Mount Holly	Martin of Springfield	Turner of Milton
Eckhardt of Chittenden	O'Sullivan of Burlington	Winters of Williamstown
Edwards of Brattleboro	Pearson of Burlington	Zagar of Barnard

Rep. Batchelor of Derby explained her vote as follows:

“Mr. Speaker:

I voted no to H. 559 because the bill takes away the choices and transparency my constituents have asked for.”

Rep. Branagan of Georgia explained her vote as follows:

“Mr. Speaker:

Too much speculation. Too little choice. Too many unknowns. This plan really is not ready to be approved. But, equally bothersome to me was the bitter atmosphere that developed during our debate on this important vote. Intimidating comments to a member? Sharp laughter at the response of a member? And then there are the questions that emerged over the use of electronic messaging to members while on the floor. These things should not happen in this chamber.”

Rep. Clark of Vergennes explained his vote as follows:

“Mr. Speaker:

Trust me, I’m from the Legislature and I’m here to help you” will have a whole new meaning as this bill gets further public scrutiny”

Rep. Copeland-Hanzas of Bradford explained her vote as follows:

“Mr. Speaker:

As the owner of a very small business in Vermont I look forward to 2014 when I and all my employees will be able to access insurance in the exchange. As a business owner I will have 100% choice over my health costs year after year. I will be able to make a contribution to my employees health care through a flex account in the amount my business can afford. I know that seasonal fluctuations in my business or in my employees income will not leave either of us saddled with health care costs we can’t afford. I am proud of the work we have done to implement an Affordable Care Act exchange in a way that works for Vermont businesses and working Vermonters.”

Rep. Dickinson of St. Albans Town explained her vote as follows:

“Mr. Speaker:

I vote no because there are too many unknowns and unanswered questions:

- how much will it cost?
- who will pay for it?
- how will we pay for it?
- what will be the impact on our hospitals, doctors, nurses and others?
- what will be the impact on our Vermont businesses, working Vermonters and Vermont families?”

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

I support a health care exchange as originally conceived in the Affordable Care Act – as a marketplace where insurers would compete for consumers’ business, providing a wide range of health insurance plans for consumers to choose from. This bill, however, perverts that purpose by restricting choice, eliminating effective competition, and substituting the judgment of the government for the judgment of our citizens. I cannot support such a bill.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

This bill advances cost effective health care availability for our fellow Vermonters. Fear of vague unknowns has been cited again and again as a reason to vote against it. Had those who founded our state had such troubled hears the Vermont we represent today never would have come to be. Neither, if the voices of fear prevail, will health care reform. I am pleased we have rejected that tremulous advice today.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

Our current health care system is a money eating dinosaur. Before it disappears in the tar pit of history it wants as much of our money as it can swallow. Its time to stop feeding this beast. It’s time to put people first. It’s time to make sure health care dollars are spent on health care. And it’s time to take Vermont another step forward to contain health care costs and achieve better health outcomes.”

Rep. Peltz of Woodbury explained his vote as follows:

“Mr. Speaker:

As a former employer who struggled for years to provide health care insurance to my employees, the relief H. 559 provides to current employers I applaud and wish I had access to.

When health care reform was proposed in Massachusetts, small business owners vehemently opposed it. Today we are supportive and better protected from the recession .”

Rep. Smith of New Haven explained his vote as follows:

“Mr. Speaker:

Having more competition in insurance inside the exchange and outside the exchange is important to allow better choices for participants and would

provide better service amount the companies buying for our business

This bill does not provide any financial projections on how the exchange will impact new entrants and how the overall plan will be funded.

We have been discussing a single payer system since the early 90's. Time enough to have some answers to these questions. For these reasons I vote no."

Message from the Senate No. 19

A message was received from the Senate by Mr. Bloomer, its Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 116. An act relating to probate proceedings.

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

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

H. 629. An act relating to reapportioning the initial districts of the house of representatives.

And has passed the same in concurrence.

Bill Amended; Third Reading Ordered

H. 556

Rep. Dickinson of St. Albans Town, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to creating a private activity bond advisory committee

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 993 is added to read:

§ 993. ADVISORY COMMITTEE

(a)(1) Creation; composition. There is created a private activity bond advisory committee, which shall consist of the following members:

(A) the state treasurer or his or her designee;

(B) the secretary of administration or his or her designee;

(C) the secretary of commerce and community development or his or her designee;

(D) two members who shall be representatives of the public, appointed by the governor.

(2) Each public representative shall serve for a two-year term beginning February 1, or until his or her successor is appointed. The terms of the public representatives shall be staggered so that only one member's term expires in each year.

(3) The state treasurer or designee shall serve as chair of the committee.

(4) The office of the state treasurer shall provide administrative support to the committee.

(5) Public representatives may receive reimbursement of expenses and per diem compensation pursuant to section 1010 of this title.

(b) Committee charge.

(1) The committee shall survey the expected need for private activity bond allocations among constituted and eligible issuing authorities empowered to issue such bonds on an annual basis.

(2)(A) The committee shall develop guidelines for allocation of private activity bonding capacity designed to maximize the availability of tax exempt financing among various sectors of the Vermont economy with a focus on economic development, housing, education, redevelopment, public works, energy, waste management, waste and recycling collection, transportation, and other activities that the committee determines will benefit the citizens of Vermont.

(B) The guidelines should support efforts and entities that increase the number of good-paying jobs in the state, promote economic development, support affordable housing, and affordable access to postsecondary education and training, and encourage the use of Vermont's human and natural resources in endeavors that maximize Vermont's comparative economic advantages, and be flexible enough to include new and innovative uses of private activity bonds, consistent with federal regulations and the Internal Revenue Code.

(3) The committee shall meet at least annually and shall hold at least one public hearing prior to submitting its recommendations to the emergency board. The committee shall further submit its recommendations in an annual report of its activities to the governor and the general assembly.

(4) On or before December 1 of each year, the committee shall make recommendations to the emergency board on the allocation, including any amounts reserved for contingency allocations, of the state's private activity bond ceiling for the following calendar year to and among the constituted issuing authorities empowered to issue such bonds.

(5) On its own initiative, at the request of the governor or at the request of the emergency board, the committee may make recommendations to the governor or emergency board concerning assignments or reallocation of any unused portion of the ceiling subsequent to the emergency board's initial allocation in a given year.

Sec. 2. TRANSITION OF PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

Notwithstanding any provision of law to the contrary, on the effective date of this act, the private activity bond advisory committee created in Executive Order 14-11 shall become for all lawful purposes the private activity bond committee authorized in Sec. 1 of this act; provided, however, that the term of the public representative first appointed by the governor pursuant to EO 14-11 shall end February 1, 2013, and the term of the public representative appointed second by the governor shall end February 1, 2014.

Sec. 3. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the authority, there may be appropriated annually and paid to the authority for deposit in each such fund, such sum as shall be certified by the chair of the authority, to the governor or the governor-elect, the president of the senate, and the speaker of the house, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor or the governor-elect, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the authority during the then current state fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~\$100,000,000.00~~ \$115,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the authority in contravention of the Constitution of the United States.

Sec. 4. 10 V.S.A. § 262(5) is amended to read:

(5) The principal obligation of the authority's mortgage does not exceed ~~\$1,300,000.00~~ \$1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the authority's mortgage does not exceed \$2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section;

Sec. 5. 10 V.S.A. § 216(15) is amended to read:

(15) To delegate to loan officers the power to review, approve and make loans under this chapter, subject to the approval of the manager, and to disburse funds on such loans, subject to the approval of the manager, provided that such loans do not exceed ~~\$250,000.00~~ \$350,000.00 in aggregate amount for any industrial loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity, or do not exceed ~~\$200,000.00~~ \$350,000.00 in aggregate amount if the loan is guaranteed by the Farm Services Agency, or its successor agency, or ~~\$150,000.00~~ \$300,000.00 in aggregate amount if the loan is not guaranteed by the Farm Services Agency, or its successor agency, for any agricultural loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity. No funds may be disbursed for any loan approved under this provision, except for any agricultural loan referenced above in an amount not to exceed \$50,000.00, and no rejection of a loan by a loan officer pursuant to this subdivision shall become final, until three working days after the members of the authority are notified by facsimile, electronic mail, or overnight delivery mailed or sent on the day of approval or rejection, of the intention to approve or reject such loan. If any member objects within that three-day period, the approval or rejection will be held for reconsideration by the members of the authority at its next duly scheduled meeting;

Sec. 6. 10 V.S.A. § 221(a) is amended to read:

(a) Upon application of the proposed mortgagee, the authority may insure mortgage payments required to repay loans made by the mortgagee for the purpose of financing the costs of a project, upon such terms and conditions as the authority may prescribe; provided, however, that the total principal obligations of all mortgages insured under this subsection and under subsection

(c) of this section outstanding at any one time shall not exceed ~~\$9,000,000.00~~ \$3,500,000.00. Before insuring any mortgage payments hereunder, the authority shall determine and incorporate each of the findings established by this subsection in its minutes. Such findings, when adopted by the authority shall be conclusive:

* * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

Rep. O'Brien of Richmond, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Commerce and Economic Development

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Commerce and Economic Development and Appropriations agreed to and third reading ordered.

Joint Resolution Committed

J.R.S. 47

Joint Resolution, entitled

Joint resolution urging the United States Postal Service not to implement its proposed major reductions and urging Congress to enact the Postal Service Protection Act

Was taken up and pending the question, Shall resolution be adopted in concurrence? on motion of **Rep. Olsen of Jamaica**, the resolution was committed to the committee on General, Housing and Military Affairs.

Adjournment

At seven o'clock and fifty-five minutes in the evening, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, February 24, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Sydney Lea, Poet Laureate of Vermont from Newbury, VT.

Senate Bill Referred**S. 116**

Senate bill, entitled

An act relating to probate proceedings

Was read and referred to the committee on Judiciary.

Remarks Journalized

On motion of **Rep. Andrews of Rutland City**, the following remarks by **Rep. Davis of Washington** were ordered printed in the Journal:

“Mr. Speaker:

We all know there were plenty of heroic and moving stories in the initial hours after Irene hit Vermont. I am particularly appreciative of what happened at the State Hospital. When the storm did arrive, State Hospital employees not only had to worry about their building’s safety and their own safety, they also had 50 Vermonter’s suffering with very serious mental illnesses needing their assistance to get out safely – and relocated quickly. There was not a single injury or incident despite the flooding. It’s times like “Irene” that we realize some of the worse situations bring out the best in Vermont and her people AND when we realize that our devoted Vermont State Employees really shine.

Today we learned that the Department of Mental Health plans to issue reductions in force for approximately seventy (70) employees of the Vermont State Hospital. I am especially proud of all the men and women working at the Vermont State hospital for the way they pulled together on August 29 and every day since to ensure that even our state’s most vulnerable citizens received the help and protection they needed. I would like to say “Thank You”! You do us proud!

Third Reading; Bill Passed**H. 556**

House bill, entitled

An act relating to creating a private activity bond advisory committee

Was taken up, read the third time and passed.

Bill Amended, Consideration Interrupted by Recess**H. 559**

House bill, entitled

An act relating to health care reform implementation

Was taken up and pending third reading of the bill, **Rep. Hebert of Vernon** moved to amend the bill as follows:

In Sec. 3, 33 V.S.A. § 1811, in subsection (f), by striking out subdivisions (1) and (2)(A) in their entirety and inserting in lieu thereof the following:

(f)(1) A registered carrier shall use an adjusted community rating method for determining premiums for health benefit plans. Except as provided in subdivision (2) of this subsection, the following risk classification factors are prohibited from use in rating individuals, small employers, or employees of small employers, or the dependents of such individuals or employees:

(A) demographic rating, including age and gender rating;

(B) industry rating;

(C) medical underwriting and screening;

(D) experience rating;

(E) tier rating; or

(F) durational rating.

(2)(A)(i) The commissioner shall, by rule, adopt standards and a process to permit registered carriers to use one or more of the following risk classifications in their community rating method, to the extent allowed under the Patient Protection and Affordable Care Act (Public Law 111-148):

(I) geographic rating area;

(II) age, except that the maximum rate variation for adults shall be 3:1 across the age rating bands established by the Secretary of the U.S. Department of Health and Human Services; and

(III) tobacco use, except that the maximum rate variation shall be 1.5:1.

(ii) The commissioner's rules may not permit any medical underwriting and screening and shall give due consideration to the need for the affordability and accessibility of health insurance.

Thereupon, **Rep. Hebert of Vernon** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the bill as follows:

First: In Sec. 2c, Exchange Options, in the second sentence, preceding the word “otherwise”, by striking the word “to”

Second: In Sec. 3, 33 V.S.A. § 1811(f)(2)(B), in the first sentence, preceding the word “otherwise”, by striking the word “to”

Third: In Sec. 4, 8 V.S.A. § 4080g(c)(8)(B)(ii), in the first sentence, preceding the word “otherwise”, by striking the word “to”

Fourth: In Sec. 4, 8 V.S.A. § 4080g(c)(9), in the second sentence, following “permit insurers to”, by striking out “correspondingly limit community rating provisions from applying” and inserting in lieu thereof “limit community rating provisions accordingly as applicable”

Fifth: In Sec. 15, 18 V.S.A. § 9433(a), in the second sentence, following “deny”, by striking out “certificates” and inserting in lieu thereof “certificates”

Sixth: In Secs. 32a and 32b, 18 V.S.A. §§ 4631a(d) and 4632(c), in the first sentence of each, following “bring an action in”, by striking out “Washington superior court” and inserting in lieu thereof “the civil division of the Washington unit of the superior court”

Seventh: In Sec. 33, Dual Eligible Project Proposal, in subdivision (b)(3)(F), following “within the individual’s ISP and a”, by striking out “choices” and inserting in lieu thereof “choice”

Which was agreed to.

Recess

Pending third reading of the bill, at ten o'clock and five minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock and fifteen minutes in the forenoon, the Speaker called the House to order.

Consideration Interrupted by Recess

H. 559

Consideration resumed on House bill, entitled

An act relating to health care reform implementation;

Pending third reading of the bill, **Rep. Browning of Arlington** moved to amend the bill as follows:

First: By adding a Sec. 5b to read:

Sec. 5b. FINANCING ANALYSIS

(a) By September 1, 2012, the legislative joint fiscal office shall provide to the general assembly an analysis of possible financing systems for Green Mountain Care.

(b) The analysis shall contain a variety of scenarios and possible funding mechanisms, using the benefit package of the state employees' health insurance plan with the highest enrollment as a proxy for the Green Mountain Care benefit package, and shall be designed to address both projected costs and combinations of potential funding sources. The analysis shall also explore the sustainability of Green Mountain Care in the event of changing economic conditions and changes in the availability of federal funds.

(c) The legislative joint fiscal office may consult or contract with such persons as the office deems necessary to create the analysis required by this section; provided, however, that the office shall not consult or contract with any person outside the legislative joint fiscal office who was involved in developing the health care system design proposal and implementation plan pursuant to Sec. 6 of No. 128 of the Acts of the 2009 Adj. Sess. (2010).

Second: In Sec. 42, Effective Dates, in subsection (a), following "5a (bill-back report)", by inserting ", 5b (Green Mountain Care financing analysis)"

Pending the question, Shall the bill be amended as recommended by Rep. Browning of Arlington? **Rep. Browning of Arlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Browning of Arlington? was decided in the negative. Yeas, 48. Nays, 88.

Those who voted in the affirmative are:

Acinapura of Brandon
Bouchard of Colchester
Branagan of Georgia
Brennan of Colchester
Browning of Arlington *
Burditt of West Rutland
Canfield of Fair Haven
Clark of Vergennes
Conquest of Newbury
Consejo of Sheldon
Degree of St. Albans City
Devereux of Mount Holly
Dickinson of St. Albans
Town
Donaghy of Poultney

Donahue of Northfield *
Fagan of Rutland City
Greshin of Warren
Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Howard of Cambridge
Hubert of Milton
Johnson of Canaan
Koch of Barre Town
Komline of Dorset
Krebs of South Hero
Larocque of Barnet
Lawrence of Lyndon
Lewis of Berlin

Lewis of Derby
Marcotte of Coventry
McAllister of Highgate
McNeil of Rutland Town
Myers of Essex
Olsen of Jamaica
Pearce of Richford
Peaslee of Guildhall
Perley of Enosburgh
Potter of Clarendon
Reis of St. Johnsbury
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford

Smith of New Haven
Strong of Albany *

Townsend of Randolph
Turner of Milton

Winters of Williamstown

Those who voted in the negative are:

Ancel of Calais
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Bartholomew of Hartland
Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Christie of Hartford
Clarkson of Woodstock
Condon of Colchester
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Courcelle of Rutland City
Dakin of Chester
Davis of Washington
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fisher of Lincoln
Frank of Underhill
French of Shrewsbury *
French of Randolph
Gilbert of Fairfax
Grad of Moretown

Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Howrigan of Fairfield
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Kitzmiller of Montpelier
Klein of East Montpelier
Krowinski of Burlington
Kupersmith of South
Burlington
Lanpher of Vergennes
Lenes of Shelburne
Lippert of Hinesburg
Lorber of Burlington
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane *
Martin of Wolcott
Masland of Thetford
McCullough of Williston
McFaun of Barre Town
Miller of Shaftsbury
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney

Munger of South Burlington
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearson of Burlington
Peltz of Woodbury
Poirier of Barre City
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Shand of Weathersfield
Sharpe of Bristol
Spengler of Colchester
Stevens of Waterbury
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toll of Danville
Trieber of Rockingham
Waite-Simpson of Essex
Webb of Shelburne
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Wright of Burlington
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

Those members absent with leave of the House and not voting are:

Batchelor of Derby
Cheney of Norwich
Crawford of Burke
Deen of Westminster
Eckhardt of Chittenden

Edwards of Brattleboro
Kilmartin of Newport City
Martin of Springfield
Morrissey of Bennington
Pugh of South Burlington

Smith of Morristown
South of St. Johnsbury
Stevens of Shoreham

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I vote yes because Vermonters deserve more information and better analysis of the policy choices before us in a timely way. I vote yes in the name of transparency and accountability.”

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

It is regrettable that we will not even provide reasonable estimates of costs and benefits of the grand experiment that we want Vermonters to believe in and support. All health care, including health care reform, should be governed by informed consent.”

Rep. French of Shrewsbury explained his vote as follows:

“Mr. Speaker:

Asking our JFO to conduct an in-house analysis of a highly charged political issue knowing that any conclusions are purely speculative in the name of transparency seems like a waste of time. There is no appropriation for contracting the analysis out of house. Exactly what informed decisions can be made by having a published scenario of what might or might not be a funding mechanism?”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

This amendment would have required production of a totally unnecessary and duplicative report at an arbitrary date to be made by a group without the needed expertise, possibly combined with an unfunded consultant. Since no Vermonters, no Vermont business and no Vermont governmental agency has any decision to make on its subject between September and January, its only possible value is for election-year politics.”

Rep. Strong of Albany explained her vote as follows:

“Mr. Speaker:

I would like to commend the Rep from Arlington for this proposed amendment. It mentions in sec. b that an analysis should be done to explore the sustainability of Green Mountain Care in the event of changing economic conditions and changes in the availability of federal funds. We are living in very uncertain economic times.”

Pending third reading of the bill, **Rep. Browning of Arlington** moved to amend the bill as follows:

First: By adding a Sec. 36a to read as follows:

Sec. 36a. Sec. 50 of No. 160 of the Acts of the 1991 Adj. Sess. (1992) is amended to read:

Sec. 50. EFFECTIVE DATE

Secs. 46, 47, 48, and 49, amending 12 V.S.A. chapter 215 ~~of Title 12~~ to provide for mandatory arbitration in medical malpractice cases and admission of practice guidelines, shall take effect on ~~the effective date of a universal access health care system enacted by the general assembly~~ July 1, 2014.

Second: In Sec. 42, Effective Dates, by adding a subsection (i) to read as follows:

(i) Sec. 36a (medical malpractice arbitration) shall take effect on July 1, 2014.

Pending the question, Shall the bill be amended as recommended by Rep. Browning of Arlington? **Rep. Browning of Arlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Browning of Arlington? was decided in the negative. Yeas, 51. Nays, 83.

Those who voted in the affirmative are:

Acinapura of Brandon	Helm of Fair Haven	Pearce of Richford
Andrews of Rutland City	Higley of Lowell	Peaslee of Guildhall
Bouchard of Colchester	Howrigan of Fairfield	Perley of Enosburgh
Branagan of Georgia	Hubert of Milton	Reis of St. Johnsbury
Brennan of Colchester	Johnson of Canaan	Savage of Swanton
Browning of Arlington *	Koch of Barre Town	Scheuermann of Stowe
Burditt of West Rutland	Komline of Dorset	Shaw of Pittsford
Canfield of Fair Haven	Krebs of South Hero	Smith of New Haven
Clark of Vergennes	Larocque of Barnet	Strong of Albany
Consejo of Sheldon	Lawrence of Lyndon	Till of Jericho
Dakin of Chester	Lewis of Berlin	Townsend of Randolph *
Degree of St. Albans City	Lewis of Derby	Turner of Milton
Dickinson of St. Albans Town	Manwaring of Wilmington	Waite-Simpson of Essex
Donaghy of Poultney	Marcotte of Coventry	Wilson of Manchester
Donahue of Northfield	McAllister of Highgate	Winters of Williamstown
Fagan of Rutland City	McFaun of Barre Town	Young of Glover
Hebert of Vernon	McNeil of Rutland Town	
	Myers of Essex	

Those who voted in the negative are:

Ancel of Calais	Bissonnette of Winooski	Buxton of Tunbridge
Aswad of Burlington	Bohi of Hartford	Campion of Bennington
Atkins of Winooski	Botzow of Pownal	Christie of Hartford
Bartholomew of Hartland *	Burke of Brattleboro	Clarkson of Woodstock

Conquest of Newbury	Keenan of St. Albans City	Partridge of Windham
Copeland-Hanzas of Bradford	Kitzmiller of Montpelier	Pearson of Burlington
Corcoran of Bennington	Klein of East Montpelier	Peltz of Woodbury
Courcelle of Rutland City	Krowinski of Burlington	Poirier of Barre City
Davis of Washington	Kupersmith of South Burlington	Potter of Clarendon
Donovan of Burlington	Lanpher of Vergennes	Ralston of Middlebury
Ellis of Waterbury	Lenes of Shelburne	Ram of Burlington
Emmons of Springfield	Leriche of Hardwick	Russell of Rutland City
Evans of Essex	Lippert of Hinesburg	Shand of Weathersfield
Fisher of Lincoln	Lorber of Burlington	Sharpe of Bristol
Frank of Underhill	Macaig of Williston	Spengler of Colchester
French of Shrewsbury	Malcolm of Pawlet	Stevens of Waterbury
French of Randolph	Marek of Newfane	Stuart of Brattleboro
Gilbert of Fairfax	Martin of Wolcott	Sweaney of Windsor
Grad of Moretown	Masland of Thetford	Taylor of Barre City
Greshin of Warren	McCullough of Williston	Toll of Danville
Haas of Rochester	Miller of Shaftsbury	Trieber of Rockingham
Head of South Burlington	Mook of Bennington	Webb of Shelburne *
Heath of Westford	Moran of Wardsboro	Wizowaty of Burlington
Hooper of Montpelier	Mrowicki of Putney	Woodward of Johnson
Howard of Cambridge	Munger of South Burlington	Wright of Burlington
Jerman of Essex	Nuovo of Middlebury	Yantachka of Charlotte *
Jewett of Ripton	O'Brien of Richmond	Zagar of Barnard
Johnson of South Hero	O'Sullivan of Burlington	

Those members absent with leave of the House and not voting are:

Batchelor of Derby	Devereux of Mount Holly	Morrissey of Bennington
Cheney of Norwich	Eckhardt of Chittenden	Olsen of Jamaica
Condon of Colchester	Edwards of Brattleboro	Pugh of South Burlington
Crawford of Burke	Kilmartin of Newport City	South of St. Johnsbury
Deen of Westminster	Martin of Springfield	Stevens of Shoreham

Rep. Bartholomew of Hartland explained his vote as follows:

“Mr. Speaker:

I voted no on this amendment because I believe the issue of tort reform needs careful consideration and appropriate committee review. This is not possible through floor debate of a bill amendment. This important matter deserves a separate bill.”

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I vote yes to put in place a better system for addressing malpractice claims

to help Vermonters, to help Vermont doctors and to further the process of health care reform.”

Rep. Townsend of Randolph explained his vote as follows:

“Mr. Speaker:

Tort Reform. If not us, then who? If not 2014, then when?”

Rep. Webb of Shelburne explained her vote as follows:

“Mr. Speaker:

Medical malpractice reform is extremely important and I support the amendment’s intention, but not the process to get there. Last year’s Act 48 requested a study on this very subject. This report was completed on January 31, 2012 and I was able to find it on the House Health Care website under ‘Act 48 Documents’. Appendix A contains a four-part recommendation for medical malpractice reform. I am willing to wait for the committees of jurisdiction to complete their thoughtful and deliberative process to make sure we get this complicated reform correct.”

Rep. Yantachka of Charlotte explained his vote as follows:

“Mr. Speaker:

I agree that tort reform is required as part of a reform of the health care system. However, this amendment activates a 20-year-old concept which I believe should be re-evaluated in detail by appropriate committees before we agree to implement it. This could not be done with such short notice. For this reason I do not support this amendment.”

Recess

At twelve o'clock and thirty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At one o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

Consdieration Resumed; Bill Amended; Read the Third Time and Passed

H. 559

Consideration resumed on House bill, entitled

An act relating to health care reform implementation;

Pending third reading of the bill, **Rep. Olsen of Jamaica** moved to amend the bill as follows:

By striking subsection (g) in its entirety and inserting in lieu thereof the following:

(g) No. 2 of the Acts of 2005 (I-SaveRx prescription drug program) is repealed on passage. Notwithstanding any provision of Sec. 2 of No. 2 of the Acts of 2005 to the contrary, repeal of such act shall constitute Vermont's withdrawal from the I-SaveRx agreement and terminate its related cooperative relationship with the state of Illinois.

Which was agreed to.

Pending third reading of the bill, **Rep. Olsen of Jamaica** moved to amend the bill as follows:

First: By adding a Sec. 32c to read:

Sec. 32c. I-SaveRx PRESCRIPTION DRUG PROGRAM; REPORT

(a) No later than December 1, 2012, the legislative joint fiscal office shall submit a report to the house committee on health care and the senate committee on health and welfare regarding Vermont's participation in the I-SaveRx prescription drug program enacted in No. 2 of the Acts of 2005.

(b) The joint fiscal office's report shall contain an analysis of the total cost to the state of implementing and administering the I-SaveRx program, the total number of participants in the program by year and in the aggregate, and an estimate of the total savings realized by program participants during the program's operation. The office shall also identify the program's successes and failures and provide an assessment of the relative merits to the state of pursuing similar efforts in the future.

Second: In Sec. 42, Effective Dates, in subsection (a), following "29 (HMO reporting requirements)", by inserting ", 32c (I-SaveRx report)."

Pending the question, Shall the House amend the bill as recommended by Rep. Olsen of Jamaica? **Rep. Deree of St. Albans City** moved to amend the recommendation of amendment offered by Rep. Olsen of Jamaica as follows:

First: In subsection (a), following the word "regarding", by inserting "Catamount Health and"

Second: In subsection (b), following the word "administering", by inserting "Catamount Health and", following "participants in", by striking out the word "the" and inserting in lieu thereof "Catamount Health and the I-SaveRx", following "during the", by inserting "I-SaveRx", and in the second sentence, following "identify", by striking out the word "the" and inserting in lieu thereof "Catamount Health's and the I-SaveRx"

Thereupon, **Rep. Degree of St. Albans City** asked and was granted leave of the House to withdraw his amendment.

Thereupon, the recurring question, Shall the House amend the bill as recommended by Rep. Olsen of Jamaica? Was disagreed to on a Division vote. Yeas, 30. Nays, 69.

Pending third reading of the bill, **Reps. Sharpe of Bristol and Wizowaty of Burlington** moved to amend the bill as follows:

First: By adding a Sec. 3a to read as follows:

Sec. 3a. 8 V.S.A. § 4085 is amended to read:

§ 4085. REBATES AND COMMISSIONS PROHIBITED FOR NONGROUP AND SMALL GROUP POLICIES

(a) No insurer doing business in this state and no insurance agent or broker shall offer, promise, allow, give, set off, or pay, directly or indirectly, any rebate of or part of the premium payable on ~~the a nongroup or small group policy, or on any nongroup or small group policy or agent's commission thereon~~ or earnings, profits, dividends, or other benefits founded, arising, accruing or to accrue thereon or therefrom, or any special advantage in date of policy or age of issue, or any paid employment or contract for services of any kind or any other valuable consideration or inducement to or for insurance on any risk in this state, now or hereafter to be written, or for or upon any renewal of any such insurance, which is not specified in the policy contract of insurance, or offer, promise, give, option, sell, purchase any stocks, bonds, securities, or property or any dividends or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance or in connection therewith, or any renewal thereof, which is not specified in the policy.

(b) No ~~insured~~ person under a nongroup or small group policy or party or applicant for nongroup or small group insurance shall directly or indirectly receive or accept, or agree to receive or accept any rebate of premium or of any part thereof ~~or all or any part of any agent's or broker's commission thereon~~, or any favor or advantage, or share in any benefit to accrue under any nongroup or small group policy of insurance, or any valuable consideration or inducement, other than such as is specified in the policy.

(c) Nothing in this section shall be construed as prohibiting ~~the payment of commission or other compensation to any duly licensed agent or broker; or as prohibiting~~ any insurer from allowing or returning to its participating policyholders dividends, savings, or unused premium deposits; or as prohibiting any insurer from returning or otherwise abating, in full or in part, the premiums of its policyholders out of surplus accumulated from

nonparticipating insurance, or as prohibiting the taking of a bona fide obligation, with interest at not exceeding six percent per annum, in payment of any premium.

(d) No insurer shall pay any commission, fee, or other compensation, directly or indirectly, to a licensed or unlicensed agent, broker, or other individual other than a bona fide employee of the insurer in connection with the sale of a nongroup or small group health insurance policy, nor shall an insurer include in a nongroup or small group health insurance rate any sums related to services provided by an agent, broker, or other individual other than a bona fide employee of the insurer.

Second: By adding a Sec. 3b to read as follows:

Sec. 3b. 8 V.S.A. § 4085a is added to read:

§ 4085a. REBATES PROHIBITED FOR GROUP INSURANCE POLICIES

(a) As used in this section, “group insurance” means any policy described in section 4079 of this title, except that it shall not include any small group policy issued pursuant to section 4080a of this title or to 33 V.S.A. § 1811.

(b) No insurer doing business in this state and no insurance agent or broker shall offer, promise, allow, give, set off, or pay, directly or indirectly, any rebate of or part of the premium payable on a group insurance policy, or on any group insurance policy or agent’s commission thereon or earnings, profits, dividends, or other benefits founded, arising, accruing or to accrue thereon or therefrom, or any special advantage in date of policy or age of issue, or any paid employment or contract for services of any kind or any other valuable consideration or inducement to or for insurance on any risk in this state, now or hereafter to be written, or for or upon any renewal of any such insurance, which is not specified in the policy contract of insurance, or offer, promise, give, option, sell, purchase any stocks, bonds, securities, or property or any dividends or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance or in connection therewith, or any renewal thereof, which is not specified in the policy.

(c) No insured person under a group insurance policy or party or applicant for group insurance shall directly or indirectly receive or accept, or agree to receive or accept any rebate of premium or of any part thereof or all or any part of any agent’s or broker’s commission thereon, or any favor or advantage, or share in any benefit to accrue under any policy of insurance, or any valuable consideration or inducement, other than such as is specified in the policy.

(d) Nothing in this section shall be construed as prohibiting the payment of commission or other compensation to any duly licensed agent or

broker; or as prohibiting any insurer from allowing or returning to its participating policyholders dividends, savings, or unused premium deposits; or as prohibiting any insurer from returning or otherwise abating, in full or in part, the premiums of its policyholders out of surplus accumulated from nonparticipating insurance, or as prohibiting the taking of a bona fide obligation, with interest not exceeding six percent per annum, in payment of any premium.

(e) An insurer that pays a commission, fee, or other compensation, directly or indirectly, to a licensed or unlicensed agent, broker, or other individual other than a bona fide employee of the insurer in connection with the sale of a group insurance policy shall clearly disclose to the purchaser of such group policy the amount of any such commission, fee, or compensation paid or to be paid.

Third: By adding a Sec. 3c to read as follows:

Sec. 3c. DISCLOSURE OF COMMISSIONS FOR NONGROUP AND
SMALL GROUP POLICIES

(a) An insurer that pays a commission, fee, or other compensation, directly or indirectly, to a licensed or unlicensed agent, broker, or other individual other than a bona fide employee of the insurer in connection with the sale of a nongroup or small group insurance policy shall clearly disclose to the purchaser of such policy the amount of any such commission, fee, or compensation paid or to be paid.

(b) The disclosure requirement in subsection (a) of this section shall apply to all health insurers offering nongroup or small group insurance policies, or both, beginning July 1, 2012, until the insurer no longer pays any commission, fee, or other compensation in connection with the sale of a nongroup or small group insurance policy in compliance with the provisions of 8 V.S.A. § 4085.

Fourth: In Sec. 42, Effective Dates, by adding a subsection (i) to read:

(i)(1) Sec. 3a (prohibition on brokers' fees) shall take effect on January 1, 2014 and shall apply to all health insurers on and after January 1, 2014 on such date as a health insurer issues, offers, or renews a health insurance policy, but in no event later than January 1, 2015.

(2) Secs. 3b and 3c shall take effect on July 1, 2012.

Thereupon, **Rep. Sharpe of Bristol** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Rep. Degree of St. Albans City** moved to amend the bill as follows:

First: By adding a Sec. 32c to read:

Sec. 32c. CATAMOUNT HEALTH; REPORT

(a) No later than December 1, 2012, the legislative joint fiscal office shall submit a report to the house committees on health care and on appropriations and the senate committees on health and welfare, on appropriations, and on finance regarding Catamount Health.

(b) The joint fiscal office's report shall contain an analysis of the costs to the state of implementing and administering Catamount Health, including the Catamount Health assistance program, and the total number of participants in Catamount Health and the Catamount Health assistance program by year and in the aggregate. The office shall also identify the successes and failures of Catamount Health and provide an assessment of the relative merits to the state of pursuing similar efforts in the future.

Second: In Sec. 42, Effective Dates, in subsection (a), following “29 (HMO reporting requirements)”, by inserting “, 32c (Catamount Health report).”

Pending the question, Shall the bill be amended as recommended by Rep. Degree of St. Albans City? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Degree of St. Albans City? was decided in the negative. Yeas, 40. Nays, 93.

Those who voted in the affirmative are:

Acinapura of Brandon	Helm of Fair Haven	Myers of Essex
Bouchard of Colchester	Higley of Lowell	Olsen of Jamaica
Branagan of Georgia	Howard of Cambridge	Pearce of Richford
Brennan of Colchester	Hubert of Milton	Peaslee of Guildhall
Burditt of West Rutland	Johnson of Canaan	Perley of Enosburgh
Canfield of Fair Haven	Koch of Barre Town	Reis of St. Johnsbury
Clark of Vergennes	Komline of Dorset	Savage of Swanton
Degree of St. Albans City	Lawrence of Lyndon	Scheuermann of Stowe
Dickinson of St. Albans	Lewis of Berlin	Shaw of Pittsford
Town	Lewis of Derby	Smith of New Haven
Donahue of Northfield	Marcotte of Coventry	Strong of Albany
Fagan of Rutland City	McAllister of Highgate	Winters of Williamstown
Greshin of Warren	McFaun of Barre Town	Wright of Burlington
Hebert of Vernon	McNeil of Rutland Town	

Those who voted in the negative are:

Ancel of Calais	Bartholomew of Hartland	Botzow of Pownal
Andrews of Rutland City	Bissonnette of Winooski	Browning of Arlington
Atkins of Winooski	Bohi of Hartford	

Burke of Brattleboro	Howrigan of Fairfield	O'Sullivan of Burlington
Buxton of Tunbridge	Jerman of Essex	Partridge of Windham
Campion of Bennington	Jewett of Ripton	Pearson of Burlington
Christie of Hartford	Johnson of South Hero	Peltz of Woodbury
Clarkson of Woodstock	Kitzmiller of Montpelier	Poirier of Barre City
Condon of Colchester	Klein of East Montpelier	Potter of Clarendon
Conquest of Newbury	Krebs of South Hero	Ralston of Middlebury
Consejo of Sheldon	Krowinski of Burlington	Ram of Burlington
Copeland-Hanzas of Bradford	Kupersmith of South Burlington	Russell of Rutland City
Corcoran of Bennington	Lanpher of Vergennes	Shand of Weathersfield
Courcelle of Rutland City	Lenes of Shelburne	Spengler of Colchester
Dakin of Chester	Leriche of Hardwick	Stevens of Waterbury
Davis of Washington	Lippert of Hinesburg	Stevens of Shoreham
Devereux of Mount Holly	Lorber of Burlington	Stuart of Brattleboro
Donovan of Burlington	Macaig of Williston	Sweaney of Windsor
Ellis of Waterbury	Malcolm of Pawlet	Taylor of Barre City
Emmons of Springfield	Manwaring of Wilmington	Till of Jericho
Evans of Essex	Marek of Newfane *	Toll of Danville
Fisher of Lincoln	Martin of Wolcott	Townsend of Randolph
Frank of Underhill	Masland of Thetford	Trieber of Rockingham
French of Shrewsbury	McCullough of Williston	Turner of Milton
French of Randolph	Miller of Shaftsbury	Waite-Simpson of Essex
Gilbert of Fairfax	Mook of Bennington	Webb of Shelburne
Grad of Moretown	Moran of Wardsboro	Wilson of Manchester
Haas of Rochester	Mrowicki of Putney	Wizowaty of Burlington *
Head of South Burlington	Munger of South Burlington	Woodward of Johnson
Heath of Westford	Nuovo of Middlebury	Yantachka of Charlotte
Hooper of Montpelier	O'Brien of Richmond	Young of Glover
		Zagar of Barnard

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Eckhardt of Chittenden	Morrissey of Bennington
Batchelor of Derby	Edwards of Brattleboro	Pugh of South Burlington
Cheney of Norwich	Keenan of St. Albans City	Sharpe of Bristol
Crawford of Burke	Kilmartin of Newport City	South of St. Johnsbury
Deen of Westminster	Larocque of Barnet	
Donaghy of Poultney	Martin of Springfield	

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

This amendment asks for a report to provide information which already is being furnished to the legislature and which is available to any Vermonter who wants it in our public documents. It is hard to conceive of a greater waste of the hard-earned dollars of Vermont’s taxpayers.”

Rep. Wizowaty of Burlington explained her vote as follows:

“Mr. Speaker:

As someone who is pleased with her health insurance through Catamount Green Mountain Care, I am glad we are not wasting money looking at why it is a ‘failure’ and instead focusing our efforts on building the exchange to streamline and simplify this process for more Vermonters.”

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 88. Nays, 38.

Those who voted in the affirmative are:

Ancel of Calais	Haas of Rochester	Nuovo of Middlebury
Atkins of Winooski	Head of South Burlington	O'Brien of Richmond
Bartholomew of Hartland	Heath of Westford	O'Sullivan of Burlington
Bissonnette of Winooski	Hooper of Montpelier	Partridge of Windham
Bohi of Hartford	Jerman of Essex	Pearson of Burlington
Botzow of Pownal	Jewett of Ripton	Poirier of Barre City
Burke of Brattleboro	Johnson of South Hero	Potter of Clarendon
Buxton of Tunbridge	Kitzmiller of Montpelier	Ram of Burlington
Campion of Bennington	Klein of East Montpelier	Russell of Rutland City
Christie of Hartford	Krebs of South Hero	Shand of Weathersfield
Clarkson of Woodstock	Krowinski of Burlington	Sharpe of Bristol
Conquest of Newbury	Kupersmith of South Burlington	Spengler of Colchester
Consejo of Sheldon	Lanpher of Vergennes	Stevens of Waterbury *
Copeland-Hanzas of Bradford	Lenes of Shelburne	Stevens of Shoreham
Courcelle of Rutland City	Leriche of Hardwick	Stuart of Brattleboro
Dakin of Chester	Lippert of Hinesburg	Sweaney of Windsor
Davis of Washington	Lorber of Burlington	Taylor of Barre City *
Devereux of Mount Holly	Macaig of Williston	Till of Jericho
Donovan of Burlington	Malcolm of Pawlet	Toll of Danville
Ellis of Waterbury	Manwaring of Wilmington	Townsend of Randolph
Emmons of Springfield	Marek of Newfane	Trieber of Rockingham
Evans of Essex	Martin of Wolcott	Waite-Simpson of Essex
Fisher of Lincoln	Masland of Thetford	Webb of Shelburne
Frank of Underhill	McCullough of Williston	Wilson of Manchester
French of Shrewsbury	Miller of Shaftsbury	Wizowaty of Burlington
French of Randolph	Mook of Bennington	Woodward of Johnson
Gilbert of Fairfax	Moran of Wardsboro	Wright of Burlington
Grad of Moretown	Mrowicki of Putney *	Yantachka of Charlotte
Greshin of Warren	Munger of South Burlington	Young of Glover
		Zagar of Barnard

Those who voted in the negative are:

Acinapura of Brandon	Branagan of Georgia	Burditt of West Rutland
Bouchard of Colchester	Brennan of Colchester	

Canfield of Fair Haven	Howard of Cambridge	Olsen of Jamaica
Clark of Vergennes	Hubert of Milton *	Pearce of Richford
Condon of Colchester	Johnson of Canaan	Perley of Enosburgh
Corcoran of Bennington	Koch of Barre Town	Savage of Swanton *
Degree of St. Albans City	Lawrence of Lyndon	Scheuermann of Stowe *
Dickinson of St. Albans Town	Lewis of Berlin	Shaw of Pittsford *
Donahue of Northfield	Lewis of Derby	Smith of New Haven
Fagan of Rutland City	Marcotte of Coventry	Strong of Albany
Hebert of Vernon *	McAllister of Highgate	Turner of Milton *
Helm of Fair Haven	McFaun of Barre Town	Winters of Williamstown
Higley of Lowell	McNeil of Rutland Town	
	Myers of Essex	

Those members absent with leave of the House and not voting are:

Andrews of Rutland City	Eckhardt of Chittenden	Morrissey of Bennington
Aswad of Burlington	Edwards of Brattleboro	Peaslee of Guildhall
Batchelor of Derby	Howrigan of Fairfield	Peltz of Woodbury
Browning of Arlington	Keenan of St. Albans City	Pugh of South Burlington
Cheney of Norwich	Kilmartin of Newport City	Ralston of Middlebury
Crawford of Burke	Komline of Dorset	Reis of St. Johnsbury
Deen of Westminster	Larocque of Barnet	South of St. Johnsbury
Donaghy of Poultney	Martin of Springfield	

Rep. Bouchard of Colchester explained his vote as follows:

“Mr. Speaker:

There is so much unknown about H. 559 that we are forced to put faith and trust in 5 people. We do have to have blind faith. Mr. Speaker, I prefer my blind faith in a brown bottle.”

Rep. Donovan of Burlington explained her vote as follows:

“Mr. Speaker:

At Senator Ted Kennedy’s funeral, his grandson offered a petition. “For what grandpa called the cause of his life that every American will have a decent quality health care as a fundamental right and not a privilege, we pray to the Lord.” Our action today moves us closer to the answer to that prayer.”

Rep. Hubert of Milton explained his vote as follows:

“Mr. Speaker:

I am bothered by the way this bill has been done. It would seem to me that the single party rule in Vermont is not working for all Vermonters. With the administration running the debate on the floor yesterday it would seem that

there is no longer a separation of powers. I am voting no for all the Vermonters who are not getting their voice heard.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

Thank you for facilitating two days of luminous debate on your health care bill. I was enlightened by several items including support for the sitting president I didn’t expect, and a reminder of how uncomfortable these chairs we sit in are.

Musician, Bruce Springsteen has a new song some speculate is a message to the governor of his home state. It’s call “We Take Care of Our Own”. That is what this bill says to me, “we take care of our own”. This bill takes us another step towards universal health care access, controlling costs and achieving better outcomes. It moves us close to ensuring health care dollars are spent on health care and puts little ole Vermont as a leader in health reform shows the way forward to a better future for all Vermonters.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

With passage of this bill Vermont takes a major step toward providing affordable health care coverage for its residents. There always will be those who question every step toward change. Fortunately, today optimism triumphed over fear.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

The Vermont House just voted to de-couple health insurance benefits from employment. As our small businesses adjust to this significant change in public policy, they expect, and frankly deserve, a commitment from us that Montpelier will not in the future try to recouple health insurance benefits to employment in any way – financially or otherwise.”

Rep. Savage of Swanton explained his vote as follows:

“Mr. Speaker:

I have heard and overheard conversations over the past week from members of this body from all sides of the political spectrum. The overall consensus of these conversations has been that the members do not understand this very complicated bill. I agree I do not understand it very well either.

The last time I personally had a conversation with a member of this body who voted in favor of a bill he did not understand but voted for it anyhow, was Act 60.

I thought to myself at that time, how odd, and that if I ever was honored to serve in this body, I would never vote for a bill that I do not understand fully and can explain to, and answer questions of my constituents, with full confidence.”

Rep. Shaw of Pittsford explained his vote as follows:

“Mr. Speaker:

I have here listening carefully for the past two days and yet when I return home this evening I still cannot answer my constituents’ most often asked questions of who is going to pay, how much is it going to cost and what is going to be covered. Hence my no vote.”

Rep. Stevens of Waterbury explained his vote as follows:

“Mr. Speaker:

Make no mistake opposing a health care exchange promises relief for Vermonters who are being choked by rising health insurance premiums is the equivalent of proudly supporting the status quo, which the majority of Vermonters know is aligned against them. I support fulfilling our federal requirements, and I honor the committee for doing so.”

Rep. Taylor of Barre City explained her vote as follows:

“Mr. Speaker:

I vote yes today because I believe that we need health care reform that benefits all Vermonters. This bill is closer to that goal.

I am particularly supportive of section 31 of this bill because it levels the playing field for consumers.”

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

Allowing an Exchange to be a robust marketplace where individuals and businesses may purchase healthcare is consistent with the Federal health care reform act of 2010. Vermont could have created an Exchange that encouraged everyone to purchase in this marketplace without forcing them into an untested system with few details regarding the costs and benefits. It’s about giving Vermonters the choice to decide what is best for them and their families instead of forcing it upon them. Keeping one’s current health insurance

coverage may provide stability and should be an option for all. We remain committed to ensuring that there is a flexibility, stability and transparency built into any and all plans that the Governor proposes as he moves forth with his healthcare reform experiments for Vermont.”

Rep. Hebert of Vernon explained his vote as follows:

“Mr. Speaker:

The last time we tried a “Blind Faith” Health Care Plan it was the Catamount Plan. Many members of this body expressed the same concerns and asked the same questions that we have asked now. Catamount passed with many unanswered questions about costs and sustainability. Catamount failed. H. 559 is another “Blind Faith” health care scheme destined for failure. H. 559 asks that we blindly place our faith and trust in the government and trust the government to take care of us.

I cannot support the “Blind Faith” approach in health care planning for the following reasons. I do know what we don’t know! We don’t know the cost, don’t know who’s covered; don’t know what the coverage is, don’t know about waivers. Most importantly no one could explain to me the true impact on my constituents. Will this bill harm them or help them?”

Action on Bill Postponed

H. 577

House bill, entitled

An act relating to public water systems

Was taken up and pending the reading of the report of the committee on Fish, Wildlife & Water Resources, on motion of **Rep. Fagan of Rutland City**, action on the bill was postponed until the next legislative day.

Rules Suspended; Bill Committed

H. 759

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

Was taken up for immediate consideration.

Pending the reading of the report of the committee on Judiciary, on motion of **Rep. Turner of Milton**, the bill was committed to the committee on Human Services.

Message from the Senate No. 20

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered joint resolution originating in the House of the following title:

J.R.H. 24. Joint resolution strongly supporting continuing and enhancing the mutually beneficial bilateral economic and trade relationship between the state of Vermont and Canada.

And has adopted the same in concurrence.

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 38. Senate concurrent resolution honoring the six fire chiefs past and present who have given over 280 years of combined service to the Marshfield Volunteer Fire Department.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 272. House concurrent resolution congratulating Harriette B. Lerrigo-Leidich of North Bennington on her 100th birthday.

H.C.R. 273. House concurrent resolution designating February 29, 2012 as Afterschool, Summer, and Expanded Learning Day at the State House.

H.C.R. 274. House concurrent resolution in memory of Garry Chalmers Simpson, a master of the cinematic, performing, and television arts.

H.C.R. 275. House concurrent resolution in memory of former Representative Carl H. Reidel of North Ferrisburgh.

H.C.R. 276. House concurrent resolution commemorating the 250th anniversary of the town of Hinesburg.

H.C.R. 277. House concurrent resolution in memory of former East Montpelier Town Clerk and Treasurer Sylvia Tosi.

Adjournment

At four o'clock and forty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, February 28, 2012, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 48.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 272

House concurrent resolution congratulating Harriette B. Lerrigo-Leidich of North Bennington on her 100th birthday;

H.C.R. 273

House concurrent resolution designating February 29, 2012 as Afterschool, Summer, and Expanded Learning Day at the State House;

H.C.R. 274

House concurrent resolution in memory of Garry Chalmers Simpson, a master of the cinematic, performing, and television arts;

H.C.R. 275

House concurrent resolution in memory of former Representative Carl H. Reidel of North Ferrisburgh;

H.C.R. 276

House concurrent resolution commemorating the 250th anniversary of the town of Hinesburg;

H.C.R. 277

House concurrent resolution in memory of former East Montpelier Town Clerk and Treasurer Sylvia Tosi;

S.C.R. 37

Senate concurrent resolution honoring the military valor of United States Army Staff Sgt. Dylan J. Maynard;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, February 28, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Ute Schmidt, Director of Spiritual Care and Clinical Pastoral Education at Fletcher Allen Health Care.

Pledge of Allegiance

Page Thomas DeMag of South Burlington, led the House in the Pledge of Allegiance.

Message from the Senate No. 21

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 112. An act relating to bail for persons charged with lewd and lascivious conduct with a child.

S. 217. An act relating to closely held benefit corporations.

S. 237. An act relating to the genuine progress indicator.

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

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

H. 365. An act relating to designating skiing and snowboarding as the official winter state sports.

And has passed the same in concurrence.

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

H. 558. An act relating to fiscal year 2012 budget adjustment.

And has accepted and adopted the same on its part.

The Senate has on its part adopted concurrent resolution originating in the House of the following title:

H.C.R. 255. House concurrent resolution urging the restoration of intercity bus service to Rutland City.

Bill Referred to Committee on Appropriations**H. 496**

House bill, entitled

An act relating to preserving Vermont's working landscape

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Remarks Journalized

On motion of **Rep. Leriche of Hardwick**, the following remarks by **Rep. Conquest of Newbury** were ordered printed in the Journal:

"Mr. Speaker:

We've heard the reading of the resolution honoring the memory of Bud Otterman and I'd like to introduce to the body members of his family who are here.

I never got a chance to know Bud well, certainly not as well as many in this body who had a chance to work with him over the years he served here. But I did have occasion to interact with him from time to time. One of those occasions was at town meeting during my first year here. I showed up a Topsham and the moderator acknowledged me and said I'd be called up to speak after the present debate was finished. But the debate resumed, with no sign of ending, and shortly Bud spoke up from the back of the room and said he knew how hard it was to make it to 3 town meetings in a morning and that I should be allowed to speak without further delay. They listened. So I got my chance in front of the Topsham town meeting and afterwards I wasn't sure I should be thankful to Bud for making that possible.

Now I can look back on that as an excellent – and needed – education – though sort of in the knuckle rapping tradition.

The point I want to make though, is that I remember afterward, driving toward the last meeting, thinking the only person in that room surprised that Bud spoke for me, was me. Everyone else there knew from long experience with Bud in their community, that he was a man of integrity and fair minded. Perhaps, above all, they knew he was a true gentleman of the old school – in the very best sense of that.

I was reminded of those traits every time I had a chance to converse with him after that, and in every bit of his legacy I've encountered here.

Mr. Speaker, I'd like now to introduce members of Bud's family who are here today, seated in the balcony."

Bill Amended; Third Reading Ordered**H. 577**

Rep. Fagan of Rutland City, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to public water systems

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1624a is amended to read:

§ 1624a. AWARDS FOR POLLUTION ABATEMENT PROJECTS
FOR COMBINED SEWER OVERFLOWS

(a) When the department finds that a proposed water pollution abatement project not covered under section 1625 of this title is necessary, that the proposed type, kind, quality, size, and estimated cost of the project, including operation cost and sewage disposal charges, are suitable for abatement of pollution, and that the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the board or by statute under chapter 47 of this title, the department may award state financial assistance to the project. These projects may include ancillary work determined by the secretary to be necessary to attain the water quality goals.

(b) The assistance shall consist of:

(1) A grant of 25 percent of the eligible project cost.

(2) A loan from the Vermont environmental protection agency (EPA) pollution control revolving fund or the Vermont pollution control revolving fund of 50 percent of the eligible project cost. No interest shall be charged. In a certificate to the Vermont municipal bond bank, the secretary shall recommend the term, repayment schedule and other terms and conditions of the loan.

(c) Notwithstanding the percentages of assistance provided for in subsection (b) of this section, when a municipality is certified by the secretary of commerce and community development to be within a designated job development zone, the grant to the municipality shall be 50 percent of eligible project costs and the loan shall be 25 percent of eligible project costs.

(d) Grants and loans under this section may be made from state and federal sources, as determined by the secretary.

(e) A loan agreement may be entered into by action of the legislative body of the municipality, using procedures specified by applicable general or special enabling authority, following:

(1) authorization by the electorate of issuance of bonds in the amount of 25 percent of project costs, unless the municipality has determined to use some other method of financing its share of project cost; and

(2) authorization by the electorate of indebtedness in the amount of the loan under this section.

(f) A loan agreement may include provisions for deferred repayment if the electorate has authorized the future issuance of bonds to make a final repayment of the loan, and the authorization specifies whether the bond agreements will pledge the full faith and credit of the municipality or sufficient revenues from municipal sewage disposal charges.

(1) Except as provided in subdivision (2) ~~below~~ of this subsection, loan repayments shall be according to the following schedule:

(A) 0.50 percent in the first year and increasing thereafter at 0.50 percent per year through the ninth year; and

(B) 5.0 percent in the 10th year through the 19th year; and

(C) the remainder in the 20th year.

(2) Notwithstanding subdivision ~~(f)~~(1) of this ~~section~~ subsection, a municipality shall be entitled to loan repayment under this subdivision if repayment would produce municipal sewer rates in the municipality which exceed 150 percent of the current state average rate for a family of four. For purposes of this calculation, the municipality's sewer rates shall be deemed to include operating costs, payments on the municipality's water pollution control debt, and repayment of five percent of the principal of the loan under this section. The following shall be minimum repayments under this subdivision:

(A) 0.25 percent per year in the first through the tenth year, dating from the issuance of the certification of completion of the project;

(B) 0.50 percent in the 11th year and increasing thereafter at 0.50 percent per year through the 19th year; and

(3) the remainder in the 20th year. When a loan is issued with deferred repayment provisions pursuant to authorization of the electorate under this section for the future issuance of bonds, upon maturity of the loan, if other sources of revenue are available, the legislative body of the municipality may elect not to issue bonds to make the final payment on the loan. The term of

these bonds, if issued, shall not exceed 20 years. As authorized in the initial vote, these bonds may be secured by a pledge of the full faith and credit of the municipality or by sufficient revenues from municipal sewage disposal charges.

(g) State financial assistance under this section shall be made to the extent that funds are available and according to a system of priorities established by the secretary. In establishing this system, priority shall be given to pollution abatement and not to the support of demand growth, and to projects discharging into or near lakes on January 1, 1988.

(h) Notwithstanding subsection (b) of this section, a loan awarded from the Vermont environmental protection agency pollution control revolving loan fund for a combined sewer overflow abatement project that is included on a priority list and that is capitalized, in whole or in part, with a federal clean water state revolving fund grant that includes loan forgiveness provisions may be for up to 100 percent of the eligible project cost.

Sec. 2. 10 V.S.A. § 1675 is amended to read:

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

(a) Authority to issue, renew, or deny permit. The secretary may issue, renew, or deny a public water system permit required by this chapter. As part of this authority, the secretary may issue general operating permits for the operation of transient noncommunity water systems.

* * *

~~(e) Duration of permit. An operating permit shall be valid for the period of time specified in the permit but not more than ten years.~~

(f) Suspension or revocation of permits.

(1) The secretary may, after notice and opportunity for hearing, revoke or suspend any permit issued pursuant to the authority under this title if the secretary finds that:

(A) the permit holder submitted materially false or inaccurate information;

(B) the permit holder has violated any material requirement, restriction or condition of this chapter, any rule promulgated thereunder, or any permit or certification issued pursuant to this chapter, or any assurance of

discontinuance or order relating to the provisions of this chapter or the rules promulgated thereunder; or

(C) there is a change in any condition that requires either a temporary or permanent restriction, limitation or elimination of the permitted use.

(2) Revocation shall be effective upon actual notice thereof to the permit holder or permit holder's designated agent.

* * *

(i) Notwithstanding the requirements of this subsection, the secretary may issue an operating permit for an existing public water system that is unable to comply with the standards adopted under this chapter provided that:

(1) The operating permit contains a compliance schedule that is designed to achieve compliance with the applicable standards within a reasonable period of time based on the nature and extent of the applicable standards at issue;

(2) The secretary finds that the continued operation of the public water system pursuant to the compliance schedule and associated permit conditions shall not present an unacceptable risk to public health; and

(3) The person who owns the public water system shall be responsible for informing all persons using the system of the nature and extent of the noncompliance with the applicable standards.

Sec. 3. 10 V.S.A. § 1676 is amended to read:

~~§ 1676. TEMPORARY PERMITS~~

~~(a) The secretary may issue a temporary operation permit for public water system if such issuance will not unreasonably contribute to a public health risk, and the system is unable to comply with:~~

~~(1) any physical facility requirement established in the Vermont standards and requirements for water system design and construction;~~

~~(2) any operational requirement established by rules adopted under this chapter; or~~

~~(3) operator certification requirements.~~

~~(b) A temporary permit shall:~~

~~(1) contain a schedule which requires compliance with this chapter and the rules adopted under this chapter by a specified date;~~

~~(2) require the person who owns or operates the system to inform all persons using the system of the nature and extent of the noncompliance with this chapter or rules of this chapter;~~

~~(3) be valid for not more than three years. A temporary permit may be renewed.~~

~~(c) A temporary permit may contain any conditions, requirements, schedules, restrictions or monitoring and testing programs that the secretary deems necessary to prevent a public health risk.~~

~~(d) [Deleted.]~~

~~(e) A temporary permit may not be issued for a new public water source if there are agricultural lands in the area that are likely to affect the proposed new source.~~

Sec. 4. 24 V.S.A. § 4753a is amended to read:

§ 4753a. AWARDS FROM REVOLVING LOAN FUNDS

(a) Pollution control. The general assembly shall approve all categories of awards made from the special funds established by section 4753 of this title for water pollution control facility construction, in order to assure that such awards conform with state policy on water quality and pollution abatement, and with the state policy that, except as provided in subsection (c) of this section, municipal entities shall receive first priority in the award of public monies for such construction, including monies returned to the revolving funds from previous awards. To facilitate this legislative oversight, the secretary of natural resources shall annually no later than January 15 report to the house and senate committees on institutions and on natural resources and energy on all awards made from the relevant special funds during the prior and current fiscal years, and shall report on and seek legislative approval of all the types of projects for which awards are proposed to be made from the relevant special funds during the current or any subsequent fiscal year. Where feasible, the specific projects shall be listed.

(b) Water supply. The secretary of natural resources shall no later than January 15, 2000 recommend to the house and senate committees on institutions and on natural resources and energy a procedure for reporting to and seeking the concurrence of the legislature with regard to the special funds established by section 4753 of this title for water supply facility construction.

(c) Failed wastewater and potable water supply system loans. Notwithstanding other priorities established in law, the secretary may award up to \$500,000.00 of the funds from the Vermont environmental protection

agency control fund and the Vermont pollution control revolving fund, combined, to a state agency, the Vermont housing finance agency, or a municipality for the administration of loans to households with income equal to or less than 200 percent of the state average median household income for the repair or replacement of failed wastewater systems and failed potable water supplies, as those terms are defined in section 10 V.S.A. § 1972 of Title 10. Upon award of funds under this section, the state agency, Vermont housing finance agency, or municipality shall agree, pursuant to a memorandum of understanding with the secretary of natural resources, to repay the funds awarded to the special fund from which they were drawn.

(d) Loan forgiveness; pollution control. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont environmental protection agency pollution control revolving fund, the secretary of natural resources, in a manner that is consistent with federal grant provisions, may forgive up to 50 percent of a loan if the award is made for a project on a priority list capitalized, at least in part, from funds appropriated from a federal clean water state revolving fund (CWSRF) grant when the CWSRF grant includes provisions authorizing loan forgiveness. Such loan forgiveness shall apply to both state and federal funds used to capitalize loans.

(e) Loan forgiveness; drinking water. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont environmental protection agency drinking water state revolving fund, the secretary of natural resources, in a manner consistent with federal grant provisions, may forgive up to 100 percent of a loan if the award is made for a project on the priority list and is capitalized, in whole or in part, from funds appropriated from a drinking water state revolving fund (DWSRF) grant when the DWSRF grant includes provisions authorizing loan forgiveness. Such loan forgiveness shall apply to both state and federal funds used to capitalize loans.

(f) Loan forgiveness standard. The secretary shall establish standards, policies, and procedures as necessary for implementing subsections (d) and (e) of this section for allocating the funds among projects and for revising standard priority lists in order to comply with requirements associated with federal capitalization grant agreements.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Rep. Shaw of Pittsford for the committee on Corrections and Institutions, recommended the bill ought to pass when amended as recommended by the committee on Fish, Wildlife and Water Resources and when further amended as follows:

First: In Sec. 1, 10 V.S.A. § 1624a, by striking subsection (h) in its entirety and inserting in lieu thereof the following:

(h) Notwithstanding subsection (b) of this section, a loan awarded from the Vermont environmental protection agency pollution control revolving loan fund for a combined sewer overflow abatement project may be for up to 100 percent of the eligible project cost if:

(1) the project is included on a priority list; and

(2) the project is capitalized, at least in part, with a federal clean water state revolving fund grant that includes loan forgiveness provisions.

Second: In Sec. 4, 24 V.S.A. § 4753a, by striking subsections (d) and (e) in their entirety and inserting in lieu thereof the following:

(d) Loan forgiveness; pollution control. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont environmental protection agency pollution control revolving fund (CWSRF), the secretary of natural resources, in a manner that is consistent with federal grant provisions, may forgive up to 50 percent of a loan if the award is made for a project on a priority list and the project is capitalized, at least in part, from funds derived from a federal CWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match.

(e) Loan forgiveness; drinking water. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont environmental protection agency drinking water state revolving fund (DWSRF), the secretary of natural resources, in a manner that is consistent with federal grant provisions, may forgive up to 100 percent of a loan if the award is made for a project on the priority list and the project is capitalized, at least in part, from funds derived from a federal DWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Fish, Wildlife & Water Resources and Corrections and Institutions, agreed to and third reading ordered.

Favorable Report; Third Reading Ordered**H. 756**

Rep. Condon of Colchester, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to the sales and use tax exemption for packaging equipment

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At eleven o'clock in the forenoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, February 29, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Senior Pastor, Peter Anderson of Jericho Congregational Church, Jericho, VT.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-eighth day of February, 2012, he approved and signed a bill originating in the House of the following title:

H. 629 An act relating to reapportioning the initial districts of the house of representatives

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 112

Senate bill, entitled

An act relating to bail for persons charged with lewd and lascivious conduct with a child;

To the committee on Judiciary.

S. 217

Senate bill, entitled

An act relating to closely held benefit corporations;

To the committee on Commerce and Economic Development.

S. 237

Senate bill, entitled

An act relating to the genuine progress indicator;

To the committee on Commerce and Economic Development.

Joint Resolution Referred to Committee

J.R.H. 25

Joint resolution relating to a federal constitutional amendment declaring that monetary contributions are not speech and are restricted to natural persons and not corporations, and that Congress and the states may enact laws regulating monetary political contributions

Offered by: Representatives Sharpe of Bristol, Ancel of Calais, Atkins of Winooski, Bartholomew of Hartland, Bissonnette of Winooski, Botzow of Pownal, Burke of Brattleboro, Christie of Hartford, Clarkson of Woodstock, Davis of Washington, Donovan of Burlington, Edwards of Brattleboro, Fisher of Lincoln, Frank of Underhill, French of Shrewsbury, Gilbert of Fairfax, Head of South Burlington, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Kitzmiller of Montpelier, Klein of East Montpelier, Kupersmith of South Burlington, Leriche of Hardwick, Manwaring of Wilmington, Marek of Newfane, Masland of Thetford, McCullough of Williston, Mrowicki of Putney, Nuovo of Middlebury, O'Sullivan of Burlington, Partridge of Windham, Ram of Burlington, Russell of Rutland City, Stuart of Brattleboro, Sweaney of Windsor, Taylor of Barre City, Till of Jericho, Wilson of Manchester, Wizowaty of Burlington, Woodward of Johnson, Young of Glover and Zagar of Barnard

Whereas, free and fair elections are essential to American democracy and effective self-governance, and

Whereas, individual persons are rightfully recognized as the human beings who actually vote in elections, and

Whereas, corporations are legal entities that governments create and can exist in perpetuity and simultaneously in many nations, and

Whereas, they do not vote in elections and should not be categorized as persons for purposes related to elections for public office, and

Whereas, corporations are not mentioned in the United States Constitution as adopted, nor have Congress and the states recognized corporations as legal persons in any subsequent federal constitutional amendment, and

Whereas, during the 1885–1886 United States Supreme Court term, in the midst of oral arguments leading to the decision Santa Clara vs. Southern Pacific Railroad Company, 118 U.S. 394, Chief Justice Waite stated that all the justices agreed that the Fourteenth Amendment’s prohibition on a state denying equal protection to a person applies to a state’s treatment of private corporations, and

Whereas, this brief but extraordinarily significant comment of Chief Justice Waite sanctioned private corporations to sue municipal and state governments for adopting laws that violate a corporation’s rights, even when those laws serve to protect and defend the rights of human persons, and

Whereas, the United States Supreme Court has continued to adhere to this legal position in its jurisprudence for over a century, and most recently applied it in its decision Citizens United v. the Federal Election Commission, 130 S.Ct. 876, that eliminated many restrictions, including any total prohibition, on corporate spending in the electoral process, and

Whereas, the Court in Citizens has created a new and unequal playing field between human beings and corporations with respect to campaign financing, negating over a century of precedent prohibiting corporate contributions to federal election campaigns dating to the Tillman Act of 1907, and

Whereas, the Citizens decision has forced candidates for political office to divert attention from the interests and needs of their human constituents in order to raise sufficient campaign funds for election, and

Whereas, corporations are not and have never been human beings and therefore are rightfully subservient to human beings and the governments that are their creators, and

Whereas, the profits and institutional survival of large corporations are often in direct conflict with the essential needs and rights of human beings, and

Whereas, large corporations have used their so-called rights to successfully seek the judicial reversal of democratically enacted laws passed at the municipal, state, and federal levels aimed at curbing corporate abuse, and

Whereas, these judicial decisions have rendered democratically elected governments ineffective in protecting their citizens against corporate harm to

the environment, health, workers, independent business, and local and regional economies, and

Whereas, large corporations own most of America's mass media and employ those media to loudly express the corporate political agenda and to convince Americans that the primary role of human beings is that of consumers rather than sovereign citizens with democratic rights and responsibilities, and

Whereas, the only way to reverse this intolerable societal reality is to amend the United States Constitution to define persons as human beings and not corporations, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the United States Congress to propose and send to the states for ratification an amendment to the United States Constitution, indicating that money is not speech and that rights protected by the Constitution of the United States are the rights of natural persons only and do not extend to corporations, and be it further

Resolved: That campaign contributions to candidates for office, political parties, and all other political contributions and election-related expenditures shall not constitute speech, and Congress and the states shall have the power to regulate election-related spending, and be it further

Resolved: That nothing contained herein shall be construed to limit the freedom of the press, and be it further

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

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Government Operations.

Third Reading; Bill Passed

H. 577

House bill, entitled

An act relating to public water systems

Was taken up, read the third time and passed.

Bill Read Third Time and Passed

H. 756

House bill, entitled

An act relating to the sales and use tax exemption for packaging equipment

Was taken up and pending third reading of the bill, **Rep. Scheuermann of Stowe** moved to amend the bill as follows:

By adding a Sec. 1a to read as follows:

Sec. 1a. SALES TAX ON PREWRITTEN SOFTWARE DOES NOT APPLY
TO REMOTELY ACCESSED SOFTWARE

The imposition of sales and use tax on prewritten computer software by 32 V.S.A. chapter 233 shall not be construed to apply to charges for remotely accessed software made after December 31, 2006. Taxes paid on such charges shall be refunded upon request if within the statute of limitations and documented to the satisfaction of the commissioner. "Charges for remotely accessed software" means charges for the right to access and use prewritten software run on underlying infrastructure that is not managed or controlled by the consumer. Enforcement of the sales and use tax imposed on the purchase of specified digital products pursuant to 32 V.S.A. § 9771(8) is not affected by this section.

Rep. Deen of Westminster raised a Point of Order as to whether the amendment was germane to the bill, which Point of Order the Speaker ruled not well taken in that both the amendment and the bill deal with exemptions to the sales tax.

Thereupon, **Rep. Scheuermann of Stowe** asked and was granted leave of the House to withdraw her amendment.

Pending third reading of the bill, **Rep. Lorber of Burlington** moved to amend the bill as follows:

By adding a Sec. 1a to read as follows:

Sec. 1a. ANALYSIS OF SALES TAX EXPENDITURES RELATED TO
MANUFACTURING

The joint fiscal office, with the assistance of the department of taxes, shall report on the costs and benefits of sales tax expenditures under Vermont law related to manufacturing, including a general projection of the number of jobs created and the cost of each job. The joint fiscal office shall report on the same to the general assembly no later than January 15, 2013.

Which was disagreed to.

Thereupon, the bill was read the third time and passed.

Rules Suspended; Report of Committee of Conference Adopted
H. 558

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to fiscal year 2012 budget adjustment

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reports that it has met and considered the same and recommends that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Sec. B.100 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.100 Secretary of administration - secretary's office

Personal services	640,938	640,938
Operating expenses	<u>74,914</u>	<u>271,914</u>
Total	<u>715,852</u>	912,852
Source of funds		
General fund	<u>715,852</u>	<u>912,852</u>
Total	<u>715,852</u>	912,852

Sec. 2. Sec. B.102 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.102 Finance and management - budget and management

Personal services	~~1,080,093~~	1,126,093
Operating expenses	<u>216,873</u>	<u>216,873</u>
Total	~~1,296,966~~	1,342,966
Source of funds		
General fund	~~1,053,132~~	1,099,132
Interdepartmental transfers	<u>243,834</u>	<u>243,834</u>
Total	~~1,296,966~~	1,342,966

Sec. 3. Sec. B.104 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.104 Human resources - operations

Personal services	5,454,543	5,454,543

Operating expenses	<u>720,455</u>	<u>701,837</u>
Total	<u>6,174,998</u>	<u>6,156,380</u>
Source of funds		
General fund	<u>1,819,211</u>	<u>1,800,593</u>
Special funds	<u>280,835</u>	<u>280,835</u>
Internal service funds	<u>3,361,536</u>	<u>3,361,536</u>
Interdepartmental transfers	<u>713,416</u>	<u>713,416</u>
Total	<u>6,174,998</u>	<u>6,156,380</u>

Sec. 4. Sec. B.137 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.137 Homeowner rebate

Grants	<u>15,190,000</u>	<u>14,190,000</u>
Total	<u>15,190,000</u>	<u>14,190,000</u>
Source of funds		
General fund	<u>15,190,000</u>	<u>14,190,000</u>
Total	<u>15,190,000</u>	<u>14,190,000</u>

Sec. 5. Sec. B.138 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.138 Renter rebate

Grants	<u>8,300,000</u>	<u>8,602,825</u>
Total	<u>8,300,000</u>	<u>8,602,825</u>
Source of funds		
General fund	<u>2,500,000</u>	<u>2,802,825</u>
Education fund	<u>5,800,000</u>	<u>5,800,000</u>
Total	<u>8,300,000</u>	<u>8,602,825</u>

Sec. 6. Sec. B.145 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.145 Total general government	<u>196,680,589</u>	<u>196,207,796</u>
Source of funds		
General fund	<u>70,286,567</u>	<u>69,813,774</u>
Special funds	<u>10,097,322</u>	<u>10,097,322</u>
Tobacco fund	<u>58,000</u>	<u>58,000</u>
Education fund	<u>9,040,000</u>	<u>9,040,000</u>
Federal funds	<u>878,355</u>	<u>878,355</u>
Internal service funds	<u>59,092,893</u>	<u>59,092,893</u>
Interdepartmental transfers	<u>5,751,979</u>	<u>5,751,979</u>
Enterprise funds	<u>3,000,963</u>	<u>3,000,963</u>
Pension trust funds	<u>37,560,515</u>	<u>37,560,515</u>
Private purpose trust funds	<u>913,995</u>	<u>913,995</u>
Total	<u>196,680,589</u>	<u>196,207,796</u>

Sec. 7. Sec. B.204 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.204 Judiciary

Personal services	~~29,103,880~~	29,128,880
Operating expenses	~~10,175,038~~	10,300,038
Grants	<u>70,000</u>	<u>70,000</u>
Total	~~39,348,918~~	39,498,918
Source of funds		
General fund	~~31,331,211~~	31,481,211
Special funds	4,175,542	4,175,542
Tobacco fund	39,871	39,871
Federal funds	1,129,259	1,129,259
Interdepartmental transfers	<u>2,673,035</u>	<u>2,673,035</u>
Total	~~39,348,918~~	39,498,918

Sec. 8. Sec. B.205 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.205 State's attorneys

Personal services	~~9,433,100~~	9,440,100
Operating expenses	<u>1,141,004</u>	<u>1,141,004</u>
Total	~~10,574,104~~	10,581,104
Source of funds		
General fund	8,297,085	8,297,085
Special funds	60,699	60,699
Federal funds	31,000	31,000
Interdepartmental transfers	<u>2,185,320</u>	<u>2,192,320</u>
Total	~~10,574,104~~	10,581,104

Sec. 9. Sec. B.209 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.209 Public safety - state police

Personal services	~~44,208,236~~	44,859,810
Operating expenses	7,046,296	7,046,296
Grants	<u>971,590</u>	<u>971,590</u>
Total	~~52,226,122~~	52,877,696
Source of funds		
General fund	~~21,233,922~~	21,885,496
Transportation fund	25,238,498	25,238,498
Special funds	1,003,612	1,003,612
Federal funds	3,401,866	3,401,866
ARRA funds	296,107	296,107
Interdepartmental transfers	<u>1,052,117</u>	<u>1,052,117</u>
Total	~~52,226,122~~	52,877,696

Sec. 10. Sec. B.210 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.210 Public safety - criminal justice services

Personal services	~~7,267,663~~	7,567,283
Operating expenses	2,565,979	2,565,979
Grants	<u>5,989,000</u>	<u>5,989,000</u>
Total	~~15,822,642~~	16,122,262
Source of funds		
General fund	~~6,124,932~~	6,424,552
Special funds	1,468,701	1,468,701
Federal funds	7,890,543	7,890,543
ARRA funds	<u>338,466</u>	<u>338,466</u>
Total	~~15,822,642~~	16,122,262

Sec. 11. Sec. B.215 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.215 Military - administration

Personal services	468,699	468,699
Operating expenses	~~376,507~~	1,117,764
Grants	<u>100,000</u>	<u>100,000</u>
Total	~~945,206~~	1,686,463
Source of funds		
General fund	~~945,206~~	<u>1,686,463</u>
Total	~~945,206~~	1,686,463

Sec. 12. Sec. B.240 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.240 Total protection to persons and property

	~~294,212,516~~	296,061,967
Source of funds		
General fund	~~105,736,367~~	107,578,818
Transportation fund	25,238,498	25,238,498
Special funds	70,577,645	70,577,645
Tobacco fund	956,816	956,816
Federal funds	58,629,823	58,629,823
ARRA funds	16,822,047	16,822,047
Global Commitment fund	1,989,102	1,989,102
Interdepartmental transfers	~~9,215,074~~	9,222,074
Enterprise funds	<u>5,047,144</u>	<u>5,047,144</u>
Total	~~294,212,516~~	296,061,967

Sec. 13. Sec. B.300 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	8,161,616	8,968,705
Operating expenses	~~3,097,481~~	2,821,996
Grants	<u>5,235,805</u>	<u>6,135,805</u>
Total	~~16,494,902~~	17,926,506
Source of funds		
General fund	4,913,133	5,088,304
Special fund	7,517	7,517
Tobacco fund	290,330	287,997
Federal funds	~~7,752,402~~	9,979,972
Global Commitment fund	415,000	415,000
Interdepartmental transfers	<u>3,116,520</u>	<u>2,147,716</u>
Total	~~16,494,902~~	17,926,506

Sec. 14. Sec. B.301 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.301 Secretary's office - global commitment

Grants	~~1,080,785,264~~	1,084,179,866
Total	~~1,080,785,264~~	1,084,179,866
Source of funds		
General fund	~~139,267,121~~	125,548,225
Special funds	~~18,630,961~~	19,052,361
Tobacco fund	36,978,473	36,978,473
State health care resources fund	~~221,579,040~~	234,205,524
Catamount fund	~~23,948,700~~	25,226,979
Federal funds	~~639,692,834~~	642,480,169
Interdepartmental transfers	<u>688,135</u>	<u>688,135</u>
Total	~~1,080,785,264~~	1,084,179,866

Sec. 15. Sec. B.302 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.302 Rate setting

Personal services	852,330	820,620
Operating expenses	<u>80,608</u>	<u>53,686</u>
Total	~~932,938~~	874,306
Source of funds		
Global Commitment fund	<u>932,938</u>	<u>874,306</u>
Total	~~932,938~~	874,306

Sec. 16. Sec. B.306 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.306 Department of Vermont health access - administration

Personal services	85,804,852	86,056,056
Operating expenses	~~2,761,571~~	(1,759,604)

Grants	<u>7,625,573</u>	<u>7,604,073</u>
Total	<u>96,191,996</u>	91,900,525
Source of funds		
General fund	<u>945,014</u>	489,014
Special funds	1,579,123	1,579,123
Federal funds	<u>43,169,600</u>	39,064,279
ARRA funds	2,505,044	2,505,044
Global Commitment fund	<u>43,916,098</u>	44,185,948
Interdepartmental transfers	<u>4,077,117</u>	<u>4,077,117</u>
Total	<u>96,191,996</u>	91,900,525

Sec. 17. Sec. B.307 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	<u>640,777,596</u>	<u>638,970,335</u>
Total	<u>640,777,596</u>	638,970,335
Source of funds		
Global Commitment fund	<u>640,777,596</u>	<u>638,970,335</u>
Total	<u>640,777,596</u>	638,970,335

Sec. 18. Sec. B.308 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.308 Department of Vermont health access - Medicaid program - long term care waiver

Grants	<u>205,491,171</u>	<u>202,453,817</u>
Total	<u>205,491,171</u>	202,453,817
Source of funds		
General fund	<u>86,593,979</u>	83,843,969
Federal funds	<u>118,897,192</u>	<u>118,609,848</u>
Total	<u>205,491,171</u>	202,453,817

Sec. 19. Sec. B.309 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	<u>26,979,994</u>	<u>26,616,777</u>
Total	<u>26,979,994</u>	26,616,777
Source of funds		
General fund	<u>25,896,529</u>	25,466,728
Global Commitment fund	<u>1,083,465</u>	<u>1,150,049</u>
Total	<u>26,979,994</u>	26,616,777

Sec. 20. Sec. B.310 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.310 Department of Vermont health access - Medicaid non-waiver matched

Grants	<u>42,553,092</u>	<u>43,863,618</u>
Total	<u>42,553,092</u>	<u>43,863,618</u>
Source of funds		
General fund	<u>17,931,272</u>	<u>17,837,604</u>
Federal funds	<u>24,621,820</u>	<u>26,026,014</u>
Total	<u>42,553,092</u>	<u>43,863,618</u>

Sec. 21. Sec. B.311 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.311 Health - administration and support

Personal services	<u>5,485,409</u>	<u>5,319,736</u>
Operating expenses	<u>1,932,004</u>	<u>1,932,004</u>
Grants	<u>2,781,190</u>	<u>3,181,190</u>
Total	<u>10,198,603</u>	<u>10,432,930</u>
Source of funds		
General fund	<u>1,059,487</u>	<u>1,043,859</u>
Special funds	<u>324,063</u>	<u>674,063</u>
Federal funds	<u>5,152,054</u>	<u>5,070,009</u>
ARRA funds	<u>81,815</u>	<u>81,815</u>
Global Commitment fund	<u>3,581,184</u>	<u>3,563,184</u>
Total	<u>10,198,603</u>	<u>10,432,930</u>

Sec. 22. Sec. B.312 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.312 Health - public health

Personal services	<u>33,496,002</u>	<u>33,353,719</u>
Operating expenses	<u>7,145,652</u>	<u>7,145,126</u>
Grants	<u>33,438,566</u>	<u>32,976,653</u>
Total	<u>74,080,220</u>	<u>73,475,498</u>
Source of funds		
General fund	<u>7,262,449</u>	<u>7,262,449</u>
Special funds	<u>11,012,411</u>	<u>10,974,251</u>
Tobacco fund	<u>1,594,000</u>	<u>1,594,000</u>
Federal funds	<u>32,903,499</u>	<u>32,800,052</u>
ARRA funds	<u>460,165</u>	<u>460,165</u>
Global Commitment fund	<u>19,862,288</u>	<u>19,399,173</u>
Interdepartmental transfers	<u>975,408</u>	<u>975,408</u>
Dedicated Trust funds	<u>10,000</u>	<u>10,000</u>
Total	<u>74,080,220</u>	<u>73,475,498</u>

Sec. 23. Sec. B.313 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.313 Health - alcohol and drug abuse programs

Personal services	2,650,944	2,636,691
Operating expenses	371,158	371,158
Grants	<u>25,881,381</u>	<u>26,293,294</u>
Total	<u>28,903,483</u>	29,301,143
Source of funds		
General fund	3,211,543	3,211,543
Special funds	233,884	233,884
Tobacco fund	1,386,234	1,386,234
Federal funds	5,955,677	5,952,064
Global Commitment fund	<u>17,766,145</u>	18,167,418
Interdepartmental transfers	<u>350,000</u>	<u>350,000</u>
Total	<u>28,903,483</u>	29,301,143

Sec. 24. Sec. B.314 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.314 Mental health - mental health

Personal services	5,486,339	5,482,633
Operating expenses	1,117,984	1,040,984
Grants	<u>124,369,250</u>	<u>128,344,044</u>
Total	<u>130,973,573</u>	134,867,661
Source of funds		
General fund	811,295	811,295
Special funds	6,836	6,836
Federal funds	6,555,971	6,552,154
Global Commitment fund	<u>123,579,471</u>	127,477,376
Interdepartmental transfers	<u>20,000</u>	<u>20,000</u>
Total	<u>130,973,573</u>	134,867,661

Sec. 25. Sec. B.315 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.315 Mental health - Vermont state hospital

Personal services	20,479,188	20,479,188
Operating expenses	2,056,312	1,394,734
Grants	<u>82,335</u>	<u>82,335</u>
Total	<u>22,617,835</u>	21,956,257
Source of funds		
General fund	17,016,067	16,513,585
Special funds	835,486	810,816
Federal funds	213,564	213,564
Global Commitment fund	<u>4,252,718</u>	4,127,151
Interdepartmental transfers	<u>300,000</u>	<u>291,141</u>

Total	~~22,617,835~~	21,956,257

Sec. 26. Sec. B.316 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.316 Department for children and families - administration & support services

Personal services	~~38,009,556~~	37,135,535
Operating expenses	~~7,835,052~~	7,031,515
Grants	<u>1,206,996</u>	<u>1,206,996</u>
Total	~~47,051,604~~	45,374,046
Source of funds		
General fund	~~16,383,046~~	15,544,761
Federal funds	~~14,330,642~~	13,921,484
Global Commitment fund	~~16,125,416~~	15,695,301
Interdepartmental transfers	<u>212,500</u>	<u>212,500</u>
Total	~~47,051,604~~	45,374,046

Sec. 27. Sec. B.317 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.317 Department for children and families - family services

Personal services	~~23,318,476~~	23,348,827
Operating expenses	~~3,408,618~~	3,303,950
Grants	<u>60,116,513</u>	<u>60,615,513</u>
Total	~~86,843,607~~	87,268,290
Source of funds		
General fund	~~20,908,063~~	20,693,747
Special funds	1,691,637	1,691,637
Tobacco fund	275,000	275,000
Federal funds	~~27,652,387~~	27,535,431
Global Commitment fund	~~36,216,520~~	36,972,475
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	~~86,843,607~~	87,268,290

Sec. 28. Sec. B.318 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.318 Department for children and families - child development

Personal services	~~3,165,567~~	3,223,028
Operating expenses	~~520,809~~	416,597
Grants	<u>58,804,943</u>	<u>58,942,563</u>
Total	~~62,491,319~~	62,582,188
Source of funds		
General fund	~~23,492,835~~	25,215,367
Special funds	1,820,000	1,820,000

Federal funds	<u>29,131,536</u>	27,994,379
Global Commitment fund	<u>7,907,441</u>	7,412,935
Interdepartmental transfers	<u>139,507</u>	<u>139,507</u>
Total	<u>62,491,319</u>	62,582,188

Sec. 29. Sec. B.319 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.319 Department for children and families - office of child support

Personal services	<u>8,739,557</u>	8,694,044
Operating expenses	<u>4,162,561</u>	<u>4,035,932</u>
Total	<u>12,902,118</u>	12,729,976

Source of funds

General fund	<u>2,638,576</u>	3,009,614
Special funds	455,718	455,718
Federal funds	<u>9,420,224</u>	8,877,044
Interdepartmental transfers	<u>387,600</u>	<u>387,600</u>
Total	<u>12,902,118</u>	12,729,976

Sec. 30. Sec. B.320 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.320 Department for children and families - aid to aged, blind and disabled

Personal services	1,827,113	1,827,113
Grants	<u>11,044,541</u>	<u>11,255,394</u>
Total	<u>12,871,654</u>	13,082,507

Source of funds

General fund	<u>9,121,654</u>	9,332,507
Global Commitment fund	<u>3,750,000</u>	<u>3,750,000</u>
Total	<u>12,871,654</u>	13,082,507

Sec. 31. Sec. B.321 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.321 Department for children and families - general assistance

Grants	<u>6,500,000</u>	<u>8,074,091</u>
Total	<u>6,500,000</u>	8,074,091

Source of funds

General fund	<u>5,048,680</u>	6,187,719
Federal funds	1,111,320	1,111,320
Global Commitment fund	<u>340,000</u>	<u>775,052</u>
Total	<u>6,500,000</u>	8,074,091

Sec. 32. Sec. B.322 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.322 Department for children and families - 3SquaresVT

Grants	<u>23,756,778</u>	<u>24,860,290</u>
Total	<u>23,756,778</u>	<u>24,860,290</u>
Source of funds		
Federal funds	<u>23,756,778</u>	<u>24,860,290</u>
Total	<u>23,756,778</u>	<u>24,860,290</u>

Sec. 33. Sec. B.323 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.323 Department for children and families - reach up

Grants	<u>49,155,572</u>	<u>48,919,251</u>
Total	<u>49,155,572</u>	<u>48,919,251</u>
Source of funds		
General fund	<u>19,481,509</u>	<u>19,120,188</u>
Special funds	<u>19,916,856</u>	<u>20,041,856</u>
Federal funds	<u>7,882,807</u>	<u>7,882,807</u>
Global Commitment fund	<u>1,874,400</u>	<u>1,874,400</u>
Total	<u>49,155,572</u>	<u>48,919,251</u>

Sec. 34. Sec. B.324 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP

Personal services	20,000	20,000
Operating expenses	90,000	90,000
Grants	<u>11,502,664</u>	<u>11,547,664</u>
Total	<u>11,612,664</u>	<u>11,657,664</u>
Source of funds		
Federal funds	<u>11,612,664</u>	<u>11,657,664</u>
Total	<u>11,612,664</u>	<u>11,657,664</u>

Sec. 35. Sec. B.325 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	262,256	260,866
Operating expenses	80,518	70,468
Grants	<u>4,759,371</u>	<u>4,866,237</u>
Total	<u>5,102,145</u>	<u>5,197,571</u>
Source of funds		
General fund	1,251,040	1,251,040
Special funds	57,990	57,990
Federal funds	<u>3,793,115</u>	<u>3,736,675</u>
<u>Global Commitment fund</u>		<u>151,866</u>

Total	~~5,102,145~~	5,197,571

Sec. 36. Sec. B.327 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.327 Department for children and families - Woodside rehabilitation center

Personal services	~~3,691,894~~	3,476,048
Operating expenses	<u>590,115</u>	<u>590,115</u>
Total	~~4,282,009~~	4,066,163
Source of funds		
General fund	~~964,774~~	764,774
Global Commitment fund	~~3,262,343~~	3,246,497
Interdepartmental transfers	<u>54,892</u>	<u>54,892</u>
Total	~~4,282,009~~	4,066,163

Sec. 37. Sec. B.328 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.328 Department for children and families - disability determination services

Personal services	~~4,513,664~~	4,492,057
Operating expenses	<u>1,142,442</u>	<u>1,142,442</u>
Total	~~5,656,106~~	5,634,499
Source of funds		
Federal funds	~~5,409,589~~	5,387,982
Global Commitment fund	<u>246,517</u>	<u>246,517</u>
Total	~~5,656,106~~	5,634,499

Sec. 38. Sec. B.329 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.329 Disabilities, aging, and independent living - administration & support

Personal services	~~24,093,021~~	23,955,363
Operating expenses	<u>~~3,838,249~~</u>	<u>3,494,338</u>
Total	~~27,931,270~~	27,449,701
Source of funds		
General fund	~~7,126,532~~	7,054,548
Special funds	~~889,246~~	889,246
Federal funds	~~11,194,950~~	11,039,048
Global Commitment fund	~~6,230,760~~	5,996,588
Interdepartmental transfers	<u>~~2,489,782~~</u>	<u>2,470,271</u>
Total	~~27,931,270~~	27,449,701

Sec. 39. Sec. B.330 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	<u>20,538,891</u>	<u>21,151,422</u>
Total	<u>20,538,891</u>	<u>21,151,422</u>
Source of funds		
General fund	<u>8,782,473</u>	<u>8,456,650</u>
Federal funds	<u>7,645,317</u>	<u>7,645,317</u>
Global Commitment fund	<u>3,473,601</u>	<u>4,411,955</u>
Interdepartmental transfers	<u>637,500</u>	<u>637,500</u>
Total	<u>20,538,891</u>	<u>21,151,422</u>

Sec. 40. Sec. B.333 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.333 Disabilities, aging, and independent living - developmental services

Grants	<u>152,288,227</u>	<u>151,538,227</u>
Total	<u>152,288,227</u>	<u>151,538,227</u>
Source of funds		
General fund	<u>155,125</u>	<u>155,125</u>
Special funds	<u>15,463</u>	<u>15,463</u>
Federal funds	<u>359,857</u>	<u>359,857</u>
Global Commitment fund	<u>151,757,782</u>	<u>151,007,782</u>
Total	<u>152,288,227</u>	<u>151,538,227</u>

Sec. 41. Sec. B.335 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.335 Corrections - administration

Personal services	<u>1,959,290</u>	<u>1,877,803</u>
Operating expenses	<u>194,525</u>	<u>194,525</u>
Total	<u>2,153,815</u>	<u>2,072,328</u>
Source of funds		
General fund	<u>2,153,815</u>	<u>2,072,328</u>
Total	<u>2,153,815</u>	<u>2,072,328</u>

Sec. 42. Sec. B.336 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.336 Corrections - parole board

Personal services	<u>262,434</u>	<u>262,434</u>
Operating expenses	<u>60,198</u>	<u>48,895</u>
Total	<u>322,632</u>	<u>311,329</u>
Source of funds		
General fund	<u>322,632</u>	<u>311,329</u>
Total	<u>322,632</u>	<u>311,329</u>

Sec. 43. Sec. B.337 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.337 Corrections - correctional education

Personal services	4,391,210	4,391,210
Operating expenses	<u>306,274</u>	<u>292,833</u>
Total	~~4,697,484~~	4,684,043
Source of funds		
Education fund	4,321,425	4,307,984
Interdepartmental transfers	<u>376,059</u>	<u>376,059</u>
Total	~~4,697,484~~	4,684,043

Sec. 44. Sec. B.338 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.338 Corrections - correctional services

Personal services	~~81,867,751~~	82,441,706
Operating expenses	~~34,909,316~~	33,838,300
Grants	<u>6,076,953</u>	<u>6,183,953</u>
Total	~~122,854,020~~	122,463,959
Source of funds		
General fund	~~118,621,136~~	117,444,094
Special funds	483,963	483,963
Tobacco fund	87,500	87,500
Federal funds	170,962	170,962
Global Commitment fund	~~3,094,144~~	3,881,125
Interdepartmental transfers	<u>396,315</u>	<u>396,315</u>
Total	~~122,854,020~~	122,463,959

Sec. 45. Sec. B.339 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.339 Correctional services-out of state beds

Personal services	<u>8,249,395</u>	<u>11,434,060</u>
Total	~~8,249,395~~	11,434,060
Source of funds		
General fund	<u>8,249,395</u>	<u>11,434,060</u>
Total	~~8,249,395~~	11,434,060

Sec. 46. Sec. B.345 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.345 Total human services

	~~3,095,921,720~~	3,099,050,587
Source of funds		
General fund	~~552,053,592~~	537,608,844
Special funds	~~76,643,259~~	77,476,829
Tobacco fund	~~40,611,537~~	40,609,204

State health care resources fund	~~221,579,040~~	234,205,524
Catamount fund	~~23,948,700~~	25,226,979
Education fund	~~4,321,425~~	4,307,984
Federal funds	~~1,052,142,881~~	1,052,684,505
ARRA funds	6,592,649	6,592,649
Global Commitment fund	~~1,096,854,182~~	1,100,160,788
Internal service funds	1,463,890	1,463,890
Interdepartmental transfers	~~19,700,565~~	18,703,391
Permanent trust funds	<u>10,000</u>	<u>10,000</u>
Total	~~3,095,921,720~~	3,099,050,587

Sec. 47. Sec. B.400 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.400 Labor

Personal services	24,811,666	24,811,666
Operating expenses	5,662,677	5,662,677
Grants	<u>975,000</u>	<u>1,025,000</u>
Total	~~31,449,343~~	31,499,343

Source of funds

General fund	~~2,400,316~~	2,852,309
Special funds	~~3,765,862~~	3,363,869
Federal funds	23,888,739	23,888,739
Interdepartmental transfers	<u>1,394,426</u>	<u>1,394,426</u>
Total	~~31,449,343~~	31,499,343

Sec. 48. Sec. B.402 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.402 Total labor

Source of funds

General fund	~~2,400,316~~	2,852,309
Special funds	~~3,765,862~~	3,363,869
Federal funds	23,888,739	23,888,739
Interdepartmental transfers	<u>1,394,426</u>	<u>1,394,426</u>
Total	~~31,449,343~~	31,499,343

Sec. 49. Sec. B.700 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.700 Natural resources - agency of natural resources - administration

Personal services	2,739,259	2,739,259
Operating expenses	~~1,141,374~~	1,001,265
Grants	<u>45,510</u>	<u>45,510</u>
Total	~~3,926,143~~	3,786,034

Source of funds

General fund	~~3,720,213~~	3,580,104

Special funds	54,484	54,484
Federal funds	25,000	25,000
Interdepartmental transfers	<u>126,446</u>	<u>126,446</u>
Total	<u>3,926,143</u>	3,786,034

Sec. 50. Sec. B.702 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.702 Fish and wildlife - support and field services

Personal services	12,718,176	12,718,176
Operating expenses	<u>5,253,194</u>	5,341,327
Grants	<u>904,333</u>	<u>904,333</u>
Total	<u>18,875,703</u>	18,963,836
Source of funds		
General fund	<u>983,713</u>	2,126,546
Special funds	20,000	20,000
Fish and wildlife fund	<u>17,531,844</u>	16,477,144
Interdepartmental transfers	<u>340,146</u>	<u>340,146</u>
Total	<u>18,875,703</u>	18,963,836

Sec. 51. Sec. B.703 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.703 Forests, parks and recreation - administration

Personal services	980,517	980,517
Operating expenses	<u>649,734</u>	561,276
Grants	<u>1,815,492</u>	<u>1,815,492</u>
Total	<u>3,445,743</u>	3,357,285
Source of funds		
General fund	<u>1,174,865</u>	1,086,407
Special funds	1,307,878	1,307,878
Federal funds	<u>963,000</u>	<u>963,000</u>
Total	<u>3,445,743</u>	3,357,285

Sec. 52. Sec. B.704 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.704 Forests, parks and recreation - forestry

Personal services	<u>4,377,380</u>	4,409,933
Operating expenses	495,362	495,362
Grants	<u>501,000</u>	<u>501,000</u>
Total	<u>5,373,742</u>	5,406,295
Source of funds		
General fund	<u>3,008,767</u>	3,041,320
Special funds	975,069	975,069
Federal funds	1,259,906	1,259,906

Interdepartmental transfers	<u>130,000</u>	<u>130,000</u>
Total	<u>5,373,742</u>	5,406,295

Sec. 53. Sec. B.709 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.709 Environmental conservation - management and support services

Personal services	3,958,930	3,958,930
Operating expenses	<u>994,994</u>	767,787
Grants	<u>109,800</u>	<u>109,800</u>
Total	<u>5,063,724</u>	4,836,517

Source of funds

General fund	<u>1,217,592</u>	1,157,911
Special funds	<u>1,695,813</u>	1,654,500
Federal funds	<u>1,400,917</u>	1,359,810
ARRA funds	230,000	230,000
Interdepartmental transfers	<u>519,402</u>	<u>434,296</u>
Total	<u>5,063,724</u>	4,836,517

Sec. 54. Sec. B.710 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.710 Environmental conservation - air and waste management

Personal services	9,579,425	9,579,425
Operating expenses	<u>6,851,818</u>	8,428,405
Grants	<u>2,184,487</u>	<u>2,184,487</u>
Total	<u>18,615,730</u>	20,192,317

Source of funds

General fund	<u>413,960</u>	396,908
Special funds	<u>13,739,808</u>	15,405,916
Federal funds	<u>3,778,578</u>	3,710,067
ARRA funds	378,384	378,384
Interdepartmental transfers	<u>305,000</u>	<u>301,042</u>
Total	<u>18,615,730</u>	20,192,317

Sec. 55. Sec. B.711 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.711 Environmental conservation - office of water programs

Personal services	<u>13,597,174</u>	13,677,174
Operating expenses	<u>2,208,956</u>	1,848,341
Grants	<u>2,672,351</u>	<u>2,672,351</u>
Total	<u>18,478,481</u>	18,197,866

Source of funds

General fund	<u>5,620,885</u>	5,564,472
Special funds	<u>4,915,687</u>	4,820,133

Federal funds	~~7,224,982~~	7,106,230
ARRA funds	90,302	90,302
Interdepartmental transfers	<u>626,625</u>	<u>616,729</u>
Total	~~18,478,481~~	18,197,866

Sec. 56. Sec. B.714 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.714 Total natural resources	~~88,854,316~~	89,815,200

Source of funds

General fund	~~19,453,909~~	20,267,582
Special funds	~~32,609,375~~	34,138,616
Fish and wildlife fund	~~17,531,844~~	16,477,144
Federal funds	~~15,796,383~~	15,568,013
ARRA funds	698,686	698,686
Interdepartmental transfers	<u>2,764,119</u>	<u>2,665,159</u>
Total	~~88,854,316~~	89,815,200

Sec. 57. Sec. B.801 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.801 Economic, housing, and community development

Personal services	7,892,289	7,892,289
Operating expenses	1,294,316	1,294,316
Grants	<u>12,127,703</u>	<u>12,242,903</u>
Total	~~21,314,308~~	21,429,508

Source of funds

General fund	~~5,875,933~~	5,991,133
Special funds	3,948,699	3,948,699
Federal funds	11,337,260	11,337,260
ARRA funds	52,416	52,416
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	~~21,314,308~~	21,429,508

Sec. 58. Sec. B.805 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.805 Tourism and marketing

Personal services	~~1,313,796~~	1,334,096
Operating expenses	~~1,613,714~~	1,659,414
Grants	<u>143,500</u>	<u>143,500</u>
Total	~~3,071,010~~	3,137,010

Source of funds

General fund	~~3,021,010~~	3,087,010
Interdepartmental transfers	<u>50,000</u>	<u>50,000</u>
Total	~~3,071,010~~	3,137,010

Sec. 59. Sec. B.812 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.812 Total commerce and community development	~~60,652,486~~	60,833,686
Source of funds		
General fund	~~13,189,010~~	13,370,210
Special funds	13,118,165	13,118,165
Federal funds	32,424,206	32,424,206
ARRA funds	1,002,416	1,002,416
Interdepartmental transfers	206,000	206,000
Enterprise funds	<u>712,689</u>	<u>712,689</u>
Total	~~60,652,486~~	60,833,686

Sec. 60. Sec. B.901 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.901 Transportation - aviation		
Personal services	2,578,742	2,578,742
Operating expenses	~~5,005,242~~	3,755,242
Grants	<u>160,000</u>	<u>160,000</u>
Total	~~7,743,984~~	6,493,984
Source of funds		
Transportation fund	~~3,396,984~~	3,271,984
Federal funds	<u>4,347,000</u>	<u>3,222,000</u>
Total	~~7,743,984~~	6,493,984

Sec. 61. Sec. B.903 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.903 Transportation - program development		
Personal services	36,255,937	36,255,937
Operating expenses	~~199,450,849~~	198,466,149
Grants	<u>30,093,679</u>	<u>30,093,679</u>
Total	~~265,800,465~~	264,815,765
Source of funds		
Transportation fund	~~29,381,520~~	28,381,520
TIB fund	~~13,516,260~~	15,331,560
Federal funds	~~210,051,644~~	208,251,644
ARRA funds	5,328,993	5,328,993
Interdepartmental transfers	4,993,195	4,993,195
Local match	<u>2,528,853</u>	<u>2,528,853</u>
Total	~~265,800,465~~	264,815,765

Sec. 62. Sec. B.905 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.905 Transportation - maintenance state system

Personal services	35,559,722	35,559,722
Operating expenses	~~31,657,070~~	33,682,070
Grants	<u>50,000</u>	<u>50,000</u>
Total	~~67,266,792~~	69,291,792
Source of funds		
Transportation fund	~~65,611,298~~	67,636,298
Federal funds	1,555,494	1,555,494
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	~~67,266,792~~	69,291,792

Sec. 63. Sec. B.910 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.910 Department of motor vehicles

Personal services	~~16,488,866~~	15,188,866
Operating expenses	8,873,827	8,873,827
Grants	<u>50,000</u>	<u>50,000</u>
Total	~~25,412,693~~	24,112,693
Source of funds		
Transportation fund	~~22,643,786~~	21,343,786
Federal funds	<u>2,768,907</u>	<u>2,768,907</u>
Total	~~25,412,693~~	24,112,693

Sec. 64. Sec. B.917 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.917 Transportation - town highway emergency fund

Grants	~~750,000~~	<u>850,000</u>
Total	~~750,000~~	850,000
Source of funds		
Transportation fund	~~750,000~~	<u>850,000</u>
Total	~~750,000~~	850,000

Sec. 65. Sec. B.921 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.921 Total transportation	~~553,635,290~~	552,225,590
Source of funds		
Transportation fund	~~191,665,076~~	191,365,076
TIB fund	~~19,009,937~~	20,825,237
Federal funds	~~276,191,518~~	273,266,518
ARRA funds	40,582,716	40,582,716
Internal service funds	17,286,915	17,286,915
Interdepartmental transfers	5,434,076	5,434,076
Local match	<u>3,465,052</u>	<u>3,465,052</u>
Total	~~553,635,290~~	552,225,590

Sec. 66. Sec. B.1104 of No. 63 of the Acts of 2011 is added to read:

Sec. B.1104 REPAY IRENE EMERGENCY BOARD TRANSFER

(a) The following is appropriated in fiscal year 2012 to the department of corrections - correctional services to reestablish spending authority transferred to the Emergency Relief and Assistance Fund (ERAF) for FEMA match and for the VEDA Tropical Storm Irene loan program authorized by the emergency board on September 13, 2011:

<u>General fund</u>	<u>\$5,800,000</u>

Sec. 67. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2012:

(1) The following amounts shall be transferred to the general fund from the funds indicated:

<u>21110 Employee Leasing Companies</u>	<u>33,020.85</u>
<u>21405 Fidelity interest earnings</u>	<u>approx. 31,000.00</u>
<u>21886 Treas-Refunding Bond Issue</u>	<u>36,425.69</u>
<u>21991 Clean Energy Development Fund</u>	<u>1,298,422.00</u>
<u>22005 AHS Central Office earned federal receipts</u>	<u>13,087,120.00</u>
<u>50300 Liquor Control</u>	<u>840,066.00</u>
<u>62100 Unclaimed Property</u>	<u>2,486,162.00</u>
<u>63101 AOT Escrow-Milton</u>	<u>15,009.52</u>
<u>21270 State Forests Parks Fund</u>	<u>212,000.00</u>
<u>21550 Land and Facilities Trust Fund</u>	<u>161,000.00</u>
<u>Caledonia Fair</u>	<u>5,000.00</u>
<u>North Country Hospital Loan</u>	<u>24,250.00</u>

(2) All or a portion of the unencumbered balances in the insurance regulatory and supervision fund (Fund Number 21075), the captive insurance regulatory and supervision fund (Fund Number 21085), and the securities regulatory and supervision fund (Fund Number 21080), expected to be approximately \$6,578,178, shall be transferred to the general fund, provided that on or before July 1, 2012, the commissioner of banking, insurance, securities, and health care administration certifies to the joint fiscal committee that the transfer of such balances, or any smaller portion deemed proper by the commissioner, will not impair the ability of the department in fiscal year 2013 to provide thorough, competent, fair, and effective regulatory services, or

maintain accreditation by the National Association of Insurance Commissioners; and that the joint fiscal committee does not reject such certification.

(3) The following amounts shall be transferred from the general fund to the funds indicated:

<u>21555 Emergency Relief and Assistance Fund (ERAF)</u>	<u>16,000,000.00</u>
<u>21911 Sarcoidosis Benefit Trust Fund</u>	<u>627,240.00</u>
<u>21260 Act 250 Permit Fund</u>	<u>1,139,849.00</u>
<u>21884 Emergency Personnel Survivors Benefit Special Fund</u>	<u>100,000.00</u>
<u>21255 Petroleum Cleanup Fund</u>	<u>750,000.00</u>
<u>50700 Federal Surplus Property</u>	<u>250,000.00</u>
<u>56200 State Insurance Liability Fund</u>	<u>3,000,000.00</u>
<u>58800 Facilities Operations Fund</u>	<u>2,974,383.00</u>

Sec. 67a. Sec. D.101 of No. 63 of the Acts of 2011 is amended to read:

Sec. D.101 FUND TRANSFERS AND RESERVES

(a) Notwithstanding any other provision of law, the following amounts are transferred from the funds indicated:

* * *

(4) from the transportation infrastructure bond fund established by 19 V.S.A. § 11f to the transportation infrastructure bonds debt service fund for the purpose of funding fiscal year 2013 transportation infrastructure bond debt service: ~~\$990,063~~ \$1,758,486.

* * *

Sec. 68. REVERSIONS

(a) Notwithstanding any other provisions of law, in fiscal year 2012:

(1) The following amounts shall revert to the general fund from the accounts indicated:

<u>1110891109 Governor's Transition</u>	<u>11,180.04</u>
<u>1130030000 Department of Libraries</u>	<u>27,000.21</u>
<u>1140070000 Use Tax Reimbursement Program</u>	<u>136,890.60</u>
<u>1210891002 2009 NE Council of State Gov't</u>	<u>40,439.86</u>
<u>1240891101 Transition Expenses</u>	<u>425.00</u>

<u>1250010000 Auditor of Accounts</u>	<u>3,369.26</u>
<u>1260010000 Office of the Treasurer</u>	<u>230,728.00</u>
<u>2100002000 Court Diversion</u>	<u>798.66</u>
<u>2140890901 Rental Housing Safety Study</u>	<u>22,532.04</u>
<u>2170010000 Criminal Justice Training Council</u>	<u>82,861.24</u>
<u>2230891102 2010 Elections</u>	<u>120,053.66</u>
<u>4100500000 VT Department of Labor</u>	<u>26,317.00</u>

(2) The following amounts shall revert to the education fund from the accounts indicated:

<u>1140060000 Grand List Assistance</u>	<u>5,249.65</u>
<u>5100040000 Special Education Formula</u>	<u>990,600.00</u>
<u>5100050000 State-Placed Students</u>	<u>1,022,937.27</u>
<u>5100070000 Education Services</u>	<u>24,751.37</u>
<u>5100110000 Small School Grant</u>	<u>1,989.00</u>
<u>5100120000 Debt Service Aid</u>	<u>29,652.00</u>
<u>5100190000 Essential Early Educ Grant</u>	<u>153,242.07</u>
<u>5100200000 Education-Technical Education</u>	<u>165,496.50</u>

Sec. 69. CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, general, transportation, transportation infrastructure bond, and education fund appropriations remaining unexpended on June 30, 2012 in the executive branch of state government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, general fund appropriations remaining unexpended on June 30, 2012 in the legislative and judicial branches of state government shall be carried forward and shall be designated for expenditure.

(c) Funds appropriated to contract for database maintenance for the Sex Offender Consortium, funded in Sec. B.210 of No. 63 of the Acts of 2011, that are not fully spent in fiscal year 2012 shall carry forward into fiscal year 2013 for expenditure.

Sec. 70. GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

(a) In order to facilitate the end-of-year closeout for fiscal year 2012, the secretary of human services, with approval from the secretary of administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside the agency of human services. At least three business days prior to any transfer, the agency shall submit to the joint fiscal office a proposal of transfers to be made pursuant to this section. A final report on all transfers made under this section shall be made to the joint fiscal committee for review at the September 2012 meeting. The purpose of this section is to provide the agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. 71. STATE LIABILITY INSURANCE FUND; AUTHORITY TO TRANSFER FUNDS

(a) Notwithstanding any other provisions of law, in fiscal year 2012, the commissioner of finance and management is authorized to transfer from available funds up to \$1,000,000 to the state liability insurance fund for state costs that are the result of concluded or ongoing legal expenses.

Sec. 72. HUMAN SERVICES CASELOAD RESERVE EXPENDITURES

(a) In fiscal year 2012, expenditures pursuant to appropriations from the human services caseload reserve shall be notwithstanding 32 V.S.A. § 308b(a).

Sec. 72a. Sec. D.101(b) of No. 63 of the Acts of 2011 is amended to read:

(b) The amount of ~~\$29,500,000~~ \$37,983,264 is unreserved and made available for expenditure in fiscal year 2012 from the human services caseload reserve created by 32 V.S.A. § 308b.

Sec. 73. FISCAL YEAR 2012 GENERAL FUND REVENUE ESTIMATE AND GENERAL FUND BALANCE

(a) Any increase in the January 2012 emergency board fiscal year 2012 general fund revenue estimate above the July 21, 2011 estimate shall be reserved in the human services caseload reserve, and any decrease in the estimate shall be unreserved from the human services caseload reserve established in 32 V.S.A. § 308b.

(b) At the end of fiscal year 2012, notwithstanding subsection (a) of this section and notwithstanding 32 V.S.A. §§ 308c and 308d, after the general fund budget stabilization reserve attains its statutory maximum, any additional unreserved and undesignated general fund balance shall be deposited into the

human services caseload reserve established in 32 V.S.A. § 308b to be used for caseload costs, offsets to federal funding changes, or related human service expenditures in fiscal year 2013.

Sec. 74. TRANSPORTATION; SUPPLEMENTAL PAVING SPENDING AND MAINTENANCE OF EFFORT

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the fiscal year 2012 transportation programs, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may transfer transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, to the paving program in program development (8100001100), for the specific purpose of satisfying the federal maintenance of effort determination required by 23 U.S.C. § 120(j)(2) and improving the condition of selected state highways that have incurred damage caused by winter weather of 2011–2012.

(b) If a contemplated transfer of an appropriation would, by itself, have the effect of significantly delaying the planned work schedule of a project which formed the basis of the project's funding in the fiscal year of the contemplated transfer, the secretary of transportation shall submit the proposed transfer for approval by the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, by the joint transportation oversight committee. In all other cases, the secretary of transportation may execute the transfer, giving prompt notice of the transfer to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

(c) This section shall expire on June 30, 2012.

Sec. 75. TRANSPORTATION; SUPPLEMENTAL TROPICAL STORM IRENE SPENDING

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the fiscal year 2012 transportation programs, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may transfer up to \$4,000,000 in transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, to the program development (8100001100) or to maintenance state system (8100002000) appropriations for the specific purpose of paying for costs associated with Tropical Storm Irene.

(b) If a contemplated transfer of an appropriation would, by itself, have the effect of significantly delaying the planned work schedule of a project which formed the basis of the project's funding in the fiscal year of the contemplated transfer, the secretary of transportation shall submit the proposed transfer for approval by the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, by the joint transportation oversight committee. In all other cases, the secretary of transportation may execute the transfer, giving prompt notice of the transfer to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

(c) This section shall expire on June 30, 2012.

Sec. 76. DEPARTMENT OF MOTOR VEHICLES; CERTIFICATES OF TITLE

(a) Notwithstanding the fee requirement of 23 V.S.A. § 2002(5), duplicate certificates of title may be issued without fee to the department of buildings and general services to replace those that were destroyed by Tropical Storm Irene.

Sec. 77. FEMA REIMBURSEMENT; TRANSFER TO GENERAL FUND

(a) If the department of environmental conservation is reimbursed by the Federal Emergency Management Agency (FEMA) for department expenditures for flood damage to underground or aboveground fuel storage tanks during Tropical Storm Irene or spring 2011 flooding, the reimbursement amount received from FEMA, up to \$750,000, shall be transferred from the petroleum cleanup fund to the general fund.

Sec. 77a. STATE MATCH FOR TROPICAL STORM IRENE OR SPRING FLOODING; FEMA PAYMENTS TO MUNICIPALITIES

(a) Notwithstanding 20 V.S.A. § 45(d), the secretary of administration may establish criteria and procedures governing payments from the emergency relief and assistance fund, as authorized by 20 V.S.A. § 45(a), in order to provide municipalities with up to the full state and local share of match required by Federal Emergency Management Agency (FEMA) public assistance grants for Tropical Storm Irene or spring 2011 flooding federal disaster relief. Criteria established by the secretary of administration shall reflect levels of damage, as approved by FEMA, and the ability of municipalities to provide matching funds that would otherwise be required.

(b) Payments from the emergency relief and assistance fund to municipalities to meet match requirements for FEMA public assistance grants

for Tropical Storm Irene or spring 2011 flooding federal disaster relief shall be reported to the joint fiscal committee and the joint transportation oversight committee for the preceding state fiscal year quarters, cumulatively, by April 15, 2012, July 15, 2012, October 15, 2012, and January 15, 2013, and quarterly on those dates thereafter, until such payments have been completed.

Sec. 78. REPEAL

(a) Sec. B.1101(b) of No. 156 of the Acts of the 2009 Adj. Sess. (2010) (savings associated with the consolidation of servers and other information technology changes) is repealed.

Sec. 79. REPEAL

(a) Sec. E.401(a) of No. 63 of the Acts of 2011 (allocation of funding to workforce investment boards) is repealed.

Sec. 80. REPEAL

(a) 3 V.S.A. § 634 (annual appropriation for group life insurance premiums for retired employees) is repealed.

Sec. 81. REPEAL

(a) 16 V.S.A. § 1385 (appropriation to state board of education for health programs) is repealed.

Sec. 82. REPEAL

(a) 33 V.S.A. § 1974(h) (report on the employer-sponsored insurance premium assistance program) is repealed.

Sec. 83. REPEAL

(a) 33 V.S.A. § 1986 (Catamount fund) is repealed.

Sec. 84. EXPEDITED RULES

(a) Notwithstanding any contrary provision in 3 V.S.A. chapter 25, and to implement the amendments to 8 V.S.A. § 4062 (insurance rate review) in No. 48 of the Acts of 2011 and to comply with 18 V.S.A. § 9375(b)(6)(A) requiring Green Mountain Care board approval beginning on January 1, 2012, the Green Mountain Care board may adopt expedited rules in accordance with this section. Expedited rules under this section shall have the full force and effect of rules adopted under 3 V.S.A. chapter 25 until January 1, 2013 or the board's final adoption of permanent rules to address the same subject matter, whichever occurs earlier.

(b) Notwithstanding 3 V.S.A. chapter 25 and Sec. F4 of No. 146 of the Acts of the 2009 Adj. Sess. (2010), the Green Mountain Care board shall:

(1) Adopt the expedited rule without prefiling or filing in proposed or final proposed form, and adopt the expedited rule after whatever notice and hearing that the board finds to be practicable under the circumstances. The board shall make reasonable efforts to ensure that expedited rules are known to persons who may be affected by them. These efforts may occur prior to passage of this act and also shall occur on adoption of the rules by the board.

(2) File expedited rules adopted under this section with the secretary of state and with the legislative committee on administrative rules. The legislative committee on administrative rules shall distribute copies of expedited rules to the appropriate standing committees.

(3) Ensure that expedited rules adopted under this section shall include as much of the information required for the filing of a proposed rule as is practicable under the circumstances.

(c) On a majority vote of the entire committee, the committee may object under this subsection if an expedited rule is:

(1) beyond the authority of the board;

(2) contrary to the intent of the legislature; or

(3) arbitrary.

(d) When objection is made under subsection (c) of this section, on majority vote of the entire committee, the committee may file the objection in certified form with the secretary of state. The objection shall contain a concise statement of the committee's reasons for its action. The secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the board. After a committee objection is filed with the secretary under this subsection, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the board in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the board, is consistent with the intent of the legislature, and is not arbitrary. If the board fails to meet its burden of proof, the court shall declare the whole or portion of the rule objected to invalid. The failure of the committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

Sec. 85. ADULT DAY ALLOCATION

(a) The fiscal year 2012 allocation for adult day services shall be increased by \$237,000 above the amount that was initially allocated within the funding appropriated in Sec. B.308 of No. 63 of the Acts of 2011.

Sec. 86. SUPPLEMENTAL CHILD CARE GRANTS

(a) From the funds appropriated in Sec. 28 of this act, \$200,000 shall be used to provide special supplemental grants to qualified strengthening families child care providers located in areas where there is limited access to high-quality child care and where the commissioner has determined the grant will further the applicants' sustained operation, or will provide for an orderly transition of subsidized children to alternative service providers. The commissioner for children and families shall submit to the house and senate committees on appropriations on or before March 13, 2012 a general approach to address emergency funding for the future.

(b) The commissioner shall work with providers to carry out a thorough review and revision of child care regulations and processes, which shall be completed by January 2013. A plan for this initiative shall be submitted to the general assembly on or before March 13, 2012, with a report to be submitted to the general assembly on or before February 15, 2013.

Sec. 87. POSITION AUTHORIZATIONS

(a) The following positions are authorized to be transferred and converted from existing vacant positions in the executive branch of state government in fiscal year 2012:

(1) In the department of Vermont health access, seventeen (17) classified positions;

(2) In the department for children and families, nine (9) classified positions—social worker;

(A) The intent of the general assembly for these positions is to improve the department's ability to provide services to at-risk children and families and meet caseload standards; however, these positions are not intended to establish a specific caseload for an individual social worker. Such caseloads may vary based on the need levels of the cases any individual social worker is assigned.

(3) In the department of public safety, two (2) classified positions.

(b) It is understood that the department of human resources is in the process of accumulating vacant positions to accomplish the necessary transfers and conversions. It is the intent of the general assembly that these positions be available to the respective departments as soon as possible. For this reason, the commissioner is authorized to assign these new positions in anticipation of the conversions, provided the total of authorized positions in existence at the close of fiscal year 2012 does not exceed that of those positions authorized through the 2011 legislative session, as defined in Sec. A.108 of No. 63 of the Acts of 2011.

(c) On or before March 10, 2012, the commissioner of human resources shall submit a report to the house and senate committees on appropriations detailing the total permitted number of authorized positions as of June 30, 2012, as specified in Sec. A.108 of No. 63 of the Acts of 2011.

(d) On or before July 10, 2012, the commissioner of human resources shall submit a confirmation report to the house and senate committees on appropriations detailing the actual number of authorized state positions as of June 30, 2012, as defined in Sec. A.108 of No. 63 of the Acts of 2011 to confirm that the provisions of this section have been met.

(e) In the agency of transportation, twenty-one (21) new limited service classified positions related to the response to Tropical Storm Irene and Spring 2011 flooding are authorized to be established in fiscal year 2012. These positions shall terminate on June 30, 2014. Upon agreement between the secretary of transportation and the secretary of natural resources, positions above as needed may be transferred to the agency of natural resources to provide river management engineering and other services in storm-impacted towns.

Sec. 88. Sec. 9 of No. 88 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 9. IMPLEMENTATION

No later than ~~September 1, 2011~~ November 1, 2012, the secretary of human services or designee shall implement a payment system to pay fuel benefits to certified fuel suppliers after the fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.

Sec. 89. Sec. B.1103(a)(1)(A) of No. 156 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 56 of No. 3 of the Acts of 2011, is further amended to read:

Sec. B.1103 FISCAL YEAR 2011 ONE-TIME APPROPRIATIONS

(a) In fiscal year 2011, the following amounts are appropriated:

(1) For the 27th payday in fiscal 2011:

(A) To the secretary of administration to be transferred to departments as the secretary may determine to be necessary. Of this general fund appropriation, the amount of \$130,000 may be transferred and used for the renter rebate program:

General fund	\$8,350,954	\$7,084,784
Transportation fund		\$2,067,946

Sec. 90. Sec. 38 of No. 40 of the Acts of 2011 is amended to read:

Sec. 38. DEPARTMENT OF CORRECTIONS MASTER PLAN

(a) For the purpose of reducing the number of out-of-state beds at a cost savings to the state, the department of corrections shall:

* * *

(2) modify the Southeast State Correctional Facility into a ~~50-bed work camp and a 50-bed general population~~ hybrid facility which would include both work camp and general populations.

(b) As part of the transfer required by subdivision (a)(1) of this section, the department of corrections shall:

* * *

(3) ensure individuals are released in accordance with 28 V.S.A. ~~§ 808(a)~~ §§ 808(a) and 808a–808d for the purpose of facilitating furlough or outside programming.

* * *

Sec. 91. Sec. 22 of No. 52 of the Acts of 2011 is amended to read:

Sec. 22. EB-5 ~~ENTERPRISE~~ SPECIAL FUND REPORT

On or before January 15, 2012, the secretary of commerce and community development shall submit a memorandum to the house committee on ways and means and the senate committee on finance concerning the performance of the EB-5 ~~enterprise~~ special fund, including the number of projects and investors served, the amount of the charges imposed and collected, and recommendations concerning the EB-5 ~~enterprise~~ special fund.

Sec. 92. Sec. B.906 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.906 Transportation – ~~planning, outreach and community affairs policy and planning~~

* * *

Sec. 93. Sec. B.1101 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.1101 FISCAL YEAR 2012 BASE REDUCTIONS

(a) In fiscal year 2012, the secretary of administration is authorized to reduce appropriations for labor savings due to unfilled vacant positions, voluntary reduced workweeks, modified health insurance plans for active and retired state employees, reduced state costs in supporting retirement plans, close management of personal services contracts, reduced overtime costs, and

for any other management initiatives within the executive branch, excluding reductions to grants, that are necessary to realize the base reductions. The executive branch shall provide status reports to the joint fiscal committee on achievement of this base reduction at meetings in July, September and November of 2011. The commissioner of finance and management is authorized to transfer other funds saved as a result of these initiatives to the general fund in fiscal year 2012:

General fund	\$12,000,000	<u>\$8,163,552</u>

Sec. 94. Sec. B.1102 of No. 63 of the Acts of 2011 is amended to read:

**Sec. B.1102 FISCAL YEAR 2012 CONTRACT IMPLEMENTATION
AND HEALTH INSURANCE CLAIMS ASSESSMENT**

(a) There is appropriated to the secretary of administration for contract nonsalary items ~~and costs from health insurance claims assessments~~, to be transferred to departments as the secretary may determine to be necessary:

General fund	~~\$906,500~~	<u>\$556,500</u>

Sec. 95. Sec. B.1103 of No. 63 of the Acts of 2011 is amended to read:

Sec. B.1103 FISCAL YEAR 2012 ONE-TIME APPROPRIATION

(a) In fiscal year 2012, there is appropriated to the department of tourism and marketing for the Vermont civil war sesquicentennial commission and for commemorating the War of 1812:

General fund		\$50,000

Sec. 96. Sec. 50(b) of No. 3 of the Acts of 2011, as amended by Sec. C.110 of No. 63 of the Acts of 2011, is further amended to read:

(b) The next ~~\$3,600,000~~ \$3,229,596 of any unreserved and undesignated general fund balance is appropriated to the department of labor for unemployment insurance interest. In the event that federal action is taken that results in a payment of unemployment insurance interest not being required, this appropriation shall not be made. Any payment returned to the state due to it not being required shall be deposited into the general fund.

Sec. 97. [DELETED]

Sec. 97a. [DELETED]

Sec. 98. Sec. E.301(b) of No. 63 of the Acts of 2011 is amended to read:

(b) In addition to the state funds appropriated in this section, a total estimated sum of ~~\$27,726,781~~ \$28,671,145 is anticipated to be certified as state matching funds under the Global Commitment as follows:

* * *

(3) ~~\$2,290,874~~ \$2,804,572 certified state match available from local education agencies for eligible services as allowed by federal regulation for early periodic screening, diagnosis, and treatment programs for school-aged children.

(4) ~~\$2,479,534~~ \$2,910,200 certified state match available via the University of Vermont's child health improvement program for quality improvement initiatives for the Medicaid program.

* * *

Sec. 99. Sec. E.309.2(a) of No. 63 of the Acts of 2011 is amended to read:

(a) Beginning ~~April~~ July 1, 2012, the commissioner of Vermont health access shall modify necessary rules and procedures related to eligibility and services to implement the family planning option of section 2303 of the Affordable Care Act of 2010, Public Law 111-148.

Sec. 100. Sec. E.338(d) of No. 63 of the Acts of 2011 is added to read:

(d) In fiscal year 2012, the secretary of administration may, upon recommendation of the secretary of human services, transfer unexpended funds between the respective appropriations for correctional services and for correctional services – out-of-state beds. At least three days prior to any such transfer being made, the secretary of administration shall report the intended transfer to the joint fiscal office and shall report any completed transfers to the joint fiscal committee at its next scheduled meeting.

Sec. 101. Sec. E.339 of No. 63 of the Acts of 2011 is amended to read:

Sec. E.339 Correctional services – out-of-state beds

(a) The level of funding in this appropriation is contingent upon enactment of ~~separate legislation~~ Senate Bill No. 108 of the 2011 legislative session, related to reduced incarceration of specified nonviolent misdemeanants.

Sec. 102. 4 V.S.A. § 907 is amended to read:

§ 907. LICENSING AND RENEWAL FEES

The supreme court may by rule impose a fee on applicants for admission to the bar on motion and on applicants for admission to the bar by examination. The court may also impose an annual fee on lawyers admitted to the bar of the supreme court as a condition of being licensed to practice law. ~~All fees received shall be transferred to the state treasurer for deposit in the general fund.~~

Sec. 103. 8 V.S.A. § 4089k is amended to read:

§ 4089k. HEALTH CARE INFORMATION TECHNOLOGY
REINVESTMENT FEE

(a)(1) Beginning October 1, 2009 and annually thereafter, each health insurer shall pay a fee into the health IT fund established in 32 V.S.A. § 10301 in the amount of 0.199 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid in installments due by November 1, January 1, April 1, and June 1.

(2) On or before ~~September 1, 2009~~ October 1, 2011 and annually thereafter, the secretary of administration, in consultation with the commissioner of banking, insurance, securities, and health care administration, shall publish a list of health insurers subject to the fee imposed by this section, together with the paid claims amounts attributable to each health insurer for the previous fiscal year. The costs of the department of banking, insurance, securities, and health care administration in calculating the annual claims data shall be paid from the Vermont health IT fund.

* * *

Sec. 104. 8 V.S.A. § 4089l is amended to read:

§ 4089l. HEALTH CARE CLAIMS ASSESSMENT

(a)(1) Beginning October 1, 2011 and annually thereafter, each health insurer shall pay an assessment into the state health care resources fund established in 33 V.S.A. § 1901d in the amount of 0.80 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid in installments on November 1, January 1, April 1, and June 1.

(2) On or before ~~September~~ October 1, 2011 and annually thereafter, the secretary of administration, in consultation with the commissioner of banking, insurance, securities, and health care administration, shall publish a list of health insurers subject to the fee imposed by this section together with the paid claims amounts attributable to each health insurer for the previous fiscal year. The costs of the department of banking, insurance, securities, and health care administration in calculating the annual claims data shall be paid from the state health care resources fund.

* * *

(c) As used in this section:

(1) "Health insurance" means any group or individual health care benefit policy, contract, or other health benefit plan offered, issued, renewed, or administered by any health insurer, including any health care benefit plan offered, issued, renewed, or administered by any health insurance company, any nonprofit hospital and medical service corporation, or any managed care organization as defined in 18 V.S.A. § 9402. The term includes comprehensive major medical policies, contracts, or plans and Medicare supplemental policies, contracts, or plans, but does not include Medicaid, VHAP, or any other state health care assistance program financed in whole or in part through a federal program, unless authorized by federal law and approved by the general assembly. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, long-term care, disability income, or other limited benefit health insurance policies, except that any policy providing coverage for dental services shall be included.

* * *

Sec. 105. 10 V.S.A. § 21 is amended to read:

§ 21. EB-5 ~~ENTERPRISE~~ SPECIAL FUND

(a) An EB-5 ~~enterprise~~ special fund is created for the operation of the state of Vermont regional center for immigrant investment under the federal EB-5 program. The fund shall consist of revenues derived from administrative charges by the agency of commerce and community development pursuant to subsection (c) of this section, any interest earned by the fund, and all sums which are from time to time appropriated for the support of the regional center and its operations.

(b)(1) The receipt and expenditure of moneys from the ~~enterprise~~ special fund shall be under the supervision of the secretary of commerce and community development.

* * *

(3) Expenditures from the fund shall be used only to administer the EB-5 program. At the end of each fiscal year, the secretary of administration shall transfer from the EB-5 ~~enterprise~~ special fund to the general fund any amount that the secretary of administration determines, in his or her discretion, exceeds the funds necessary to administer the program.

* * *

Sec. 106. 21 V.S.A. § 2003(d) is amended to read:

(d) Revenues from the health care fund contributions collected shall be deposited into the ~~Catamount Fund~~ state health care resources fund established

under 33 V.S.A. ~~§ 1981~~ § 1901d for the purpose of financing health care coverage under Catamount Health assistance, as provided under 33 V.S.A. chapter 19, subchapter 3a of chapter 19 of Title 33.

Sec. 107. 27A V.S.A. § 1-204(a)(2) is amended to read:

(2) Unless excepted under section 1-203 of this title, the following sections apply to a common interest community created in this state before January 1, 1999: sections 1-206; 2-102, 2-117(h) and (i), 2-124, 3-103, 3-108, 3-110, and 3-124. The sections described in this subdivision apply only to events and circumstances occurring after December 31, ~~2010~~ 2011 and do not invalidate existing provisions of the declarations, bylaws, plats, or plans of those common interest communities.

Sec. 108. 32 V.S.A. § 305a(a) is amended to read:

(a) On or about January 15 and again by July 31 of each year, and at such other times as the emergency board or the governor deems proper, the joint fiscal office and the secretary of administration shall provide to the emergency board their respective estimates of state revenues in the general, transportation, transportation infrastructure bond, education, ~~Catamount~~, and state health care resources funds, and revenues from the gross receipts tax under 33 V.S.A. § 2503. The January revenue estimate shall be for the current and next two succeeding fiscal years, and the July revenue estimate shall be for the current and immediately succeeding fiscal years. Federal fund estimates shall be provided at the same times for the current fiscal year. Global Commitment fund estimates shall be provided in January for the current and immediately succeeding fiscal year and in July for the current fiscal year.

Sec. 109. 32 V.S.A. § 7823 is amended to read:

§ 7823. DEPOSIT OF REVENUE

The revenue generated by the taxes imposed under this chapter shall be credited to the state health care resources fund established by 33 V.S.A. § 1901d ~~and the Catamount fund established by 33 V.S.A. § 1986.~~

Sec. 110. 33 V.S.A. § 1901d is amended to read:

§ 1901d. STATE HEALTH CARE RESOURCES FUND

(a) The state health care resources fund is established in the treasury as a special fund to be a source of financing health care coverage for beneficiaries of the state health care assistance programs under the Global Commitment to health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act and for the Catamount Health assistance program under subchapter 3A of chapter 19 of this title.

(b) Into the fund shall be deposited:

(1) ~~all revenue from the tobacco products tax and 85.5 percent of the revenue from the cigarette tax levied pursuant to 32 V.S.A. chapter 205 of Title 32;~~

(2) revenue from health care provider assessments pursuant to subchapter 2 of chapter 19 of this title; ~~and~~

(3) revenue from the employer health care premium contribution pursuant to 21 V.S.A. chapter 25;

(4) revenue from health care claims assessments pursuant to 8 V.S.A. § 4089l;

(5) premium amounts paid by individuals unless paid directly to the insurer;

(6) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute, rule, or act of the general assembly; and

(7) Any remaining balance in the terminated Catamount fund as of June 30, 2012.

* * *

(d) All monies received by or generated to the fund shall be used only as allowed by appropriation of the general assembly for the administration and delivery of health care covered through state health care assistance programs administered by the agency under the Global Commitment for Health Medicaid Section 1115 waiver, the Catamount Health assistance program under subchapter 3A of chapter 19 of this title, employer-sponsored insurance premium assistance under section 1974 of this title, immunizations under 18 V.S.A. § 1130, and the development and implementation of the Blueprint for Health under 18 V.S.A. § 702.

Sec. 111. 33 V.S.A. § 1901f is added to read:

§ 1901f. MEDICAID PROGRAM ENROLLMENT AND EXPENDITURE REPORTS

By January 30, April 30, July 30, and October 30 of each year the commissioner of Vermont health access or designee shall submit to the general assembly a quarterly report on enrollment and total expenditures by Medicaid eligibility group for all programs paid for by the department of Vermont health access during the preceding calendar quarter and for the fiscal year to date. Total expenditures for Medicaid-related programs paid for by other

departments within the agency of human services shall be included in this report by Medicaid eligibility group to the extent such information is available.

Sec. 112. 33 V.S.A. § 2604(a) is amended to read:

(a) Household income eligibility requirements. The secretary of human services or designee, by rule, shall establish household income eligibility requirements of beneficiaries in the seasonal fuel assistance program including the income of all residents of the household. The income eligibility requirements shall require that households have a gross household income no greater than 185 percent of the federal poverty level nor in excess of income maximums established by LIHEAP in order to be potentially eligible for benefits. To the extent allowed by federal law, the secretary of human services or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

Sec. 113. 33 V.S.A. § 2609 is amended to read:

§ 2609. CRISIS RESERVES

Annually, the secretary of human services or designee shall determine an appropriate amount of funds in the home heating fuel assistance fund to be set aside for expenditure for the crisis fuel assistance component of the home heating fuel program. The secretary or designee shall also adopt rules to define crisis situations for the expenditure of the home heating fuel crisis funds, and to establish the income and asset eligibility requirements of households for receipt of crisis home heating fuel assistance, provided that no household shall be eligible whose gross household income is greater than 200 percent of the federal poverty level or is in excess of income maximums established by LIHEAP based on the income of all persons residing in the household. To the extent allowed by federal law, the secretary or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

Sec. 113a. GENERAL FUND TRANSFER TO EDUCATION FUND INTENT

(a) Consideration of the general fund transfer to the education fund which includes a return over time to the transfer levels that would have been indicated prior to the changes made to 16 V.S.A. § 4025(a)(2) in No. 63 of the Acts of 2011 will be addressed by the house committees on ways and means and on appropriations and the senate committees on finance and on appropriations before the end of the 2012 legislative session.

Sec. 114. ACCEPTANCE OF SETTLEMENT FUNDS

(a) In accordance with the settlement resulting from an assurance of discontinuance (AOD) between the State of Vermont/Office of the Attorney General and Pyrofax which was fully executed January 18, 2012, \$100,000 shall be deposited in the home heating fuel assistance fund established in 33 V.S.A. § 2603. These funds are appropriated for expenditure in addition to funds appropriated in Sec. B.324 of No. 63 of the Acts of 2011.

Sec. 115. 32 VSA § 313(a) is amended to read:

(a) Annually, beginning January 31, 2010, the department of finance and management shall publish on its website a report on all grants of federal monies made by each executive branch agency in the preceding ~~calendar~~ state fiscal year. The report shall be formatted as a table and shall include, for each grant issued after October 1, 2008:

* * *

Sec. 116. 32 VSA § 314(a) is amended to read:

(a) Annually, beginning January 31, 2015, the department of finance and management shall publish on its website a report on all grants of federal and state monies made by each executive branch agency in the preceding ~~calendar~~ state fiscal year. The report shall be formatted as a table and shall include, for each grant:

* * *

Sec. 117. FISCAL YEAR 2012 SETOFF LIMIT

(a) Notwithstanding 32 V.S.A. § 5933, claimant agencies may submit debts of \$25.00 or more for collection of debt through setoff in fiscal year 2012.

Sec. 118. EFFECTIVE DATES

(a) This act shall take effect on passage.

(b) Secs. 83, 106, 108, 109, and 110 of this act shall take effect on July 1, 2012.

(c) The inclusion of coverage for dental services in Sec. 104 of this act as it amends 8 V.S.A. § 4089l(c)(1) shall apply as of January 1, 2012.

(d) Sec. 107 of this act (applicability of UCIOA amendments of 2012) shall take effect on passage and shall apply retroactively to January 1, 2012.

(e) The amendments to income eligibility requirements in Secs. 112 and 113 of this act, amending 33 V.S.A. §§ 2604(a) and 2609, respectively, shall apply retroactively to June 1, 2010.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

*M. JANE KITCHEL
RICHARD W. SEARS
DIANE B. SNELLING*

Committee on the part of the Senate

*MARTHA P. HEATH
MITZI JOHNSON
JOSEPH N. ACINAPURA*

Committee on the part of the House

Rep. Olsen of Jamaica raised a Point of Order that the report was in violation of Sec. 771 (2) of Masons Manual on Legislative Procedure, which Point of Order the Speaker ruled not well taken in that the subject matter in question was in the House and Senate versions of the bill.

Thereupon, the Committee of Conference report was adopted on the part of the House.

Rules Suspended; Bill Committed

H. 613

On motion of **Rep. Buxton of Tunbridge**, the rules were suspended and House bill, entitled

An act relating to governance of the Community High School of Vermont

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending the reading of the report of the committee on Education, on motion of **Rep. Buxton of Tunbridge**, the bill was committed to the committee on Government Operations.

Adjournment

At two o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, March 1, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Peter Plagge of the Waterbury Congregational Church, Waterbury, VT.

Message from the Senate No. 22

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 755. An act relating to extending the deadline for adoption of certain health department rules.

And has passed the same in concurrence.

Message from the Senate No. 23

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 630. An act relating to reforming Vermont's mental health system.

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

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 39. Senate concurrent resolution honoring former Representative and Senator Robert T. Gannett on his 95th birthday.

Committee Bill Introduced**H. 763**

Rep. Ancel of Calais, for the committee on Ways and Means, introduced a bill, entitled

An act relating to the billing and collection of the statewide education property tax by the department of taxes

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Joint Resolution Referred to Committee**J.R.H. 26**

Joint resolution encouraging the Vermont fish and wildlife board to consider opening additional rivers and streams to year-round fishing

Offered by: Representatives Atkins of Winooski, Acinapura of Brandon, Aswad of Burlington, Bartholomew of Hartland, Bissonnette of Winooski, Botzow of Pownal, Bouchard of Colchester, Burditt of West Rutland, Burke of Brattleboro, Buxton of Tunbridge, Champion of Bennington, Christie of Hartford, Clark of Vergennes, Conquest of Newbury, Consejo of Sheldon, Courcelle of Rutland City, Deen of Westminster, Degree of St. Albans City, Devereux of Mount Holly, Donaghy of Poultney, Eckhardt of Chittenden, Evans of Essex, Fagan of Rutland City, Fisher of Lincoln, Frank of Underhill, French of Shrewsbury, French of Randolph, Gilbert of Fairfax, Greshin of Warren, Head of South Burlington, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell, Hubert of Milton, Jerman of Essex, Krebs of South Hero, Lanpher of Vergennes, Larocque of Barnet, Lenes of Shelburne, Lewis of Derby, Macaig of Williston, Martin of Wolcott, McCullough of Williston, McFaun of Barre Town, McNeil of Rutland Town, Miller of Shaftsbury, Mook of Bennington, Moran of Wardsboro, Munger of South Burlington, O'Brien of Richmond, Partridge of Windham, Pearce of Richford, Peltz of Woodbury, Pugh of South Burlington, Reis of St. Johnsbury, Russell of Rutland City, Savage of Swanton, Shaw of Pittsford, Stevens of Waterbury, Strong of Albany, Stuart of Brattleboro, Sweaney of Windsor, Till of Jericho, Toll of Danville, Townsend of Randolph, Waite-Simpson of Essex, Webb of Shelburne, Wilson of Manchester, Winters of Williamstown, Yantachka of Charlotte and Zagar of Barnard

Whereas, Vermonters recognize that the fish, wildlife, and plant resources of the state are a great asset and that these resources greatly contribute to Vermonters' quality of life, and

Whereas, Vermont currently ranks third in the nation in participation in wildlife-associated recreation activities, and

Whereas, 62 percent of Vermonters participate in high-quality hunting, fishing, trapping, and wildlife opportunities, and in 2006, Vermonters and visitors to our state spent more than \$376 million participating in these activities, and

Whereas, it would be to the economic advantage of the state of Vermont to increase the percentage of Vermonters participating in these outdoor recreational activities, and

Whereas, providing more year-round fishing opportunities would enable the Vermont fish and wildlife board to attain its management goals of providing regulated and sustained fishing opportunities, and

Whereas, similarly expanding the year-round fishing options in the state would enable the board to collect information from a wider range of anglers regarding their fishing preferences and fishing successes and to share information regarding the anglers' satisfaction levels, and

Whereas, year-round fishing could assist in monitoring the fish population and the habitat of sport fishing species and allow for the evaluation of current and prospective fishing harvest regulations, and

Whereas, Vermont is trying to encourage people to consider this state as a year-round destination, and people could ski in the morning, fish in the afternoon, and snowshoe in the evening, weather permitting, and

Whereas, hard water fishing enthusiasts could move to open feeder streams and rivers to use regular rods and reels, and

Whereas, an increase in year-round fishing opportunities in Vermont would not harm fish populations since administrative rules could be adopted providing for catch-and-release policies and prohibiting the use of live bait, as such rules exist now for certain streams and rivers that are open all year, and

Whereas, chambers of commerce in Vermont could advertise this destination initiative featuring increased year-round fishing opportunities and seek assistance from state agencies and sporting activity shows in their promotional campaigns, and

Whereas, the periodically rising cost of fishing licenses, especially for nonresidents, would be more justifiable since the licensees' time of usage would be extended, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly encourages the Vermont fish and wildlife board to consider opening additional rivers and streams to year-round fishing, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont fish and wildlife board.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Fish, Wildlife & Water Resources.

Joint Resolution Referred to Committee

J.R.H. 27

Joint resolution supporting the Vermont State Hospital employees

Offered by: Representatives Moran of Wardsboro and Davis of Washington

Whereas, on August 28, 2011, the severe flooding resulting from Tropical Storm Irene forced the immediate closing of the Vermont State Hospital in Waterbury, and

Whereas, this sudden disaster required quick and decisive decisions to be implemented, and

Whereas, the Vermont State Hospital employees safely evacuated every patient, and the patients were all relocated to alternative locations across the state, and

Whereas, the employees continued to provide outstanding care to the patients wherever they were temporarily assigned, including hospital psychiatric units, step-down facilities, and even correctional units, and

Whereas, at great personal sacrifice to themselves and their families, the employees voluntarily moved to 12-hour shifts and stayed at hotels near where their patients were being treated, and

Whereas, the employees' heroic efforts have been widely credited for preventing tragedy and a complete breakdown of Vermont's mental health system, and

Whereas, the department of mental health's announcement on February 24, 2012 that approximately 80 of these excellent state employees will soon be separated from state service is a devastating blow to these extremely conscientious and dedicated individuals, and

Whereas, the working Vermonters legislative caucus is gravely concerned about the future of the entire mental health system, including the welfare of the patients and the fair treatment of state employees, and

Whereas, every reasonable effort to provide continuing employment for these individuals must be made, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly urges the department of mental health and the department of human resources to agree to the following:

First: That should an interim state mental health care facility be opened, the laid-off state employees will be given the first rights to accept the jobs required to operate this temporary mental health care facility;

Second: That for one year after a new permanent state hospital is opened, the laid-off state employees will be granted reduction in force (RIF) rights, even if they have been working outside state government in the interim, and

Third: That the department of human resources and the Vermont State Employees Association will collaborate on potential alternatives to employee layoffs including possible retirement options, and

Fourth: That the employees will be provided with job counseling and assistance in finding immediate employment either in or outside state government, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Governor Peter Shumlin, Commissioner of Mental Health Patrick Flood, and Commissioner of Human Resources Kate Duffy.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Government Operations.

Rules Suspended; Bill Committed

H. 523

On motion of **Rep. Koch of Barre Town**, the rules were suspended and House bill, entitled

An act relating to revising the state highway condemnation law

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending the reading of the report of the committee on Judiciary, on motion of **Rep. Koch of Barre Town**, the bill was committed to the committee on Transportation.

Bill Amended; Third Reading Ordered

H. 485

Rep. Jerman of Essex, for the committee on Natural Resources and Energy, to which had been referred House bill, entitled

An act relating to establishing universal recycling of solid waste

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 6602 is amended to read:

§ 6602. DEFINITIONS

For the purposes of this chapter:

(1) “Secretary” means the secretary of the agency of natural resources, or his or her duly authorized representative.

(2) “Solid waste” means any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment; high carbon bulking agents used in composting; or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, chapter 47 of this title.

* * *

(12) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

(13) “Waste” means a material that is discarded or is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

* * *

(19) “Implementation plan” means that plan which is adopted to be consistent with the state solid waste management plan and to conform with any municipal and regional plan adopted pursuant to 24 V.S.A. chapter 117. This plan must include all the elements required for consistency with the state plan and shall be approved by the secretary. This implementation plan is the basis for state certification of facilities under subsection 6605(c) of this title.

* * *

(27) "Closed-loop recycling" means a system in which a product made from one type of material is reclaimed and reused in the production process or the manufacturing of a new or separate product.

(28) "Mandated recyclable" means aluminum and steel cans; aluminum foil and aluminum pie plates; glass bottles and jars from foods and beverages; polyethylene terephthalate (PET) plastic bottles or jugs; high density polyethylene (HDPE) plastic bottles and jugs; corrugated cardboard; white and colored paper; newspaper; magazines; catalogues; paper mail and envelopes; boxboard; and paper bags.

(29) "Leaf and yard residual" means compostable untreated vegetative matter, including grass clippings, leaves, kraft paper bags, and brush, which is free from noncompostable materials. It does not include such materials as pre- and postconsumer food residuals, food processing residuals, or soiled paper.

(30) "Organic material" means compostable material derived from processing or discarding of food. Organic material may include preconsumer and postconsumer food scraps.

(31) "Wood waste" means trees, untreated wood, and other natural woody debris, including tree stumps, brush and limbs, root mats, and logs.

Sec. 2. 10 V.S.A. § 6604 is amended to read:

§ 6604. SOLID WASTE MANAGEMENT PLANS PLAN

(a) No later than ~~April 30, 1988~~ November 1, 2013, the secretary shall ~~publish and adopt, after notice and public hearing pursuant to 3 V.S.A. chapter 25 of Title 3, a solid waste management plan which sets forth a comprehensive statewide strategy for the management of waste, including~~ whenever. ~~No later than July 1, 1991, the secretary shall publish and adopt, after notice and public hearing pursuant to chapter 25 of Title 3, a hazardous waste management plan, which sets forth a comprehensive statewide strategy for the management of hazardous waste.~~

(1)(A) The ~~plans plan~~ shall ~~be based upon~~ promote the following priorities, ~~in descending order~~:

(i)(A) the greatest feasible reduction in the amount of waste generated;

(ii)(B) the reuse and closed-loop recycling of waste to reduce to the greatest extent feasible the volume remaining for processing and disposal;

(iii)(C) the reduction of the state's reliance on waste disposal to the greatest extent feasible;

(D) the creation of an integrated waste management system that promotes energy conservation, reduces greenhouse gases, and limits adverse environmental impacts;

(E) waste processing to reduce the volume or toxicity of the waste stream necessary for disposal;

(iv) land disposal of the residuals.

~~(B) Processing and disposal alternatives shall be preferred which do not foreclose the future ability of the state to reduce, reuse, and recycle waste. In determining feasibility, the secretary shall evaluate alternatives in terms of their expected life cycle costs.~~

(2) The ~~plans~~ plan shall be revised at least once every five years and shall include:

(A) an analysis of the volume and nature of wastes generated in the state, the source of the waste, and the current fate or disposition of the waste. Such an analysis shall include a waste composition study conducted in accordance with generally accepted practices for such a study;

(B) an assessment of the feasibility and cost of diverting each waste category from disposal. As used in this subdivision (a)(2), "waste category" means:

(i) marketable recyclables;

(ii) leaf and yard residuals;

(iii) organic material;

(iv) construction and demolition residuals;

(v) household hazardous waste; and

(vi) additional categories or subcategories of waste that the secretary identifies that may be diverted to meet the priorities set forth under subdivision (a)(1) of this section;

(C) a survey of existing and potential markets for each waste category that can be diverted from disposal;

(D) measurable goals and targets for waste diversion for each waste category.

(E) methods to reduce and remove material from the waste stream, including commercially generated and other organic wastes, used clothing, and construction and demolition debris, and to separate, collect, and recycle, treat or dispose of specific waste materials that create environmental, health, safety, or management problems, including, but not limited to, tires, batteries, obsolete

electronic equipment, and unregulated hazardous wastes. These portions of the plans shall include strategies to assure recycling in the state, and to prevent the incineration or other disposal of marketable recyclables. ~~They shall consider both the current solid waste stream and its projected changes, and shall be based on:~~

~~(i) an analysis of the volume and nature of wastes generated in the state, the sources of those wastes, and the current fate or disposition of those wastes;~~

~~(ii) an assessment of the feasibility and cost of recycling each type of waste, including an assessment of the feasibility of providing the option of single source recycling;~~

~~(iii) a survey of existing and potential markets for each type of waste that can be recycled;~~

(F) a coordinated education and outreach component that advances the objectives of the plan, including the source separation requirements, generator requirements to remove organic material, and the landfill disposal bans contained within this chapter.

(G) performance and accountability measures to ensure that implementation plans are effective in meeting the requirements of this section.

~~(B)(H) a proposal for the development~~ an assessment of facilities and programs necessary at the state, regional or local level to achieve the priorities identified in subdivision (a)(1) of this section and the goals established in the plan. ~~Consideration shall be given to the need for additional regional or local composting facilities, the need to expand the collection of commercially generated organic wastes, and the cost effectiveness of developing single stream waste management infrastructure adequate to serve the entire population, which may include material recovery centers. These portions of the plan shall be based, in part, on an assessment of the status, capacity, and life expectancy of existing treatment and disposal~~ solid waste facilities, and they shall include siting criteria for waste management facilities, and shall establish requirements for full public involvement.

(b) ~~The secretary may manage the hazardous wastes generated, transported, treated, stored or disposed in the state by administering a regulatory and management program which, at a minimum, meets the requirements of subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto, codified as 42 U.S.C. chapter 82, subchapter 3, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.~~

~~(1) Removal of hazardous waste from the waste stream. The secretary is authorized to carry out studies, evaluations and pilot projects to remove significant quantities of unregulated hazardous wastes from the waste stream, when in the secretary's opinion the public health and safety will not be adversely affected. One or more of these projects shall investigate the feasibility and effectiveness of separating from the rest of the waste stream those nonhazardous materials which require disposal in landfills, but which may not require the use of liners and leachate collection systems.~~

~~(2) Report on disposal of hazardous wastes. The secretary shall consult with interested persons on the disposal of hazardous waste, including persons with relevant expertise and representatives from state and local government, industry, the agricultural sector, the University of Vermont, and the general public. The secretary shall conduct public hearings, take relevant testimony, perform appropriate analysis and report to the general assembly and the governor by January 1, 1990, on the following:~~

~~(A) the nature, origin and amount of hazardous waste generated in the state;~~

~~(B) the cost and environmental impact of current disposal practices;~~

~~(C) options for the treatment and disposal of leachate collected from sanitary landfills;~~

~~(D) steps that can be taken to reduce waste flows, or recycle wastes;~~

~~(E) the need for recycling, treatment and disposal facilities to be located within the state; and~~

~~(F) a proposed process and proposed criteria for use in siting and constructing needed facilities within the state, and for obtaining the maximum amount of public input in any such process.~~

~~(c) The secretary shall hold public hearings, perform studies as required, conduct ongoing analyses, conduct analyses and make recommendations to the general assembly with respect to the reduction house and senate committees on natural resources and energy regarding the volume, amount, and toxicity of the waste stream. In this process, the secretary shall consult with manufacturers of commercial products and of packaging used with commercial products, retail sales enterprises, health and environmental advocates, waste management specialists, the general public, and state agencies. The goal of the process is to ensure that packaging used and products sold in the state are not an undue burden to the state's ability to manage its waste. The secretary shall seek voluntary changes on the part of the industrial and commercial sector in both their practices and the products they sell, so as to serve the purposes of this section. In this process, the secretary may obtain voluntary compliance~~

schedules from the appropriate industry or commercial enterprise, and shall entertain recommendations for alternative approaches. The secretary shall report at the beginning of each biennium to the ~~general assembly~~ house and senate committees on natural resources and energy, with any recommendations or options for legislative consideration. At least 45 days prior to submitting its report, the secretary shall post any recommendations within the report to its website for notice and comment.

(1) In carrying out the provisions of this subsection, the secretary first shall consider ways to keep hazardous material; toxic substances, as that term is defined in subdivision 6624(7) of this title; and nonrecyclable, nonbiodegradable material out of the waste stream, as soon as possible. In this process, immediate consideration shall be given to the following:

(A) evaluation of products and packaging that contain large concentrations of chlorides, such as packaging made with polyvinyl chloride (PVC);

(B) evaluation of polystyrene packaging, particularly that used to package fast food on the premises where the food is sold;

(C) evaluation of products and packaging that bring heavy metals into the waste stream, such as disposable batteries, paint and paint products and containers, and newspaper supplements and similar paper products;

(D) identification of unnecessary packaging, which is nonrecyclable and nonbiodegradable.

(2) With respect to the above, the secretary shall consider the following:

(A) product and packaging bans, products or packaging which ought to be exempt from such bans, the existence of less burdensome alternatives, and alternative ways that a ban may be imposed;

(B) tax incentives, including the following options:

(i) product taxes, based on a sliding scale, according to the degree of undue harm caused by the product, the existence of less harmful alternatives, and other relevant factors;

(ii) taxes on all nonrecyclable, nonbiodegradable products or packaging;

(C) deposit and return legislation for certain products.

~~(d)~~(c) A portion of the state's solid waste management plan shall set forth a comprehensive statewide program for the collection, treatment, beneficial use, and disposal of septage and sludge. The secretary shall work cooperatively with the department of health and the agency of agriculture, food and markets

in developing this portion of the plan and the rules to carry it out, both of which shall be consistent with or more stringent than that prescribed by section 405 of the Clean Water Act (33 U.S.C. § 1251, et seq.). In addition, the secretary shall consult with local governmental units and the interested public in the development of the plans. The sludge management plan and the septage management plan shall be developed and adopted by January 15, 1987. In the development of these portions of the plan, consideration shall be given to, but shall not be limited to, the following:

- (1) the varying characteristics of septage and sludge;
- (2) its value as a soil amendment;
- (3) the need for licensing or other regulation of septage and sludge handlers;
- (4) the need for seasonal storage capability;
- (5) the most appropriate burdens to be borne by individuals, municipalities, and industrial and commercial enterprises;
- (6) disposal site permitting procedures;
- (7) appropriate monitoring and reporting requirements;
- (8) actions which can be taken through existing state programs to facilitate beneficial use of septage and sludge;
- (9) the need for regional septage facilities;
- (10) an appropriate public information program; and
- (11) the need for and proposed nature and cost of appropriate pilot projects.

(e)(d) Although the ~~plans~~ plan adopted under this section and any amendments to ~~these plans~~ the plan shall be adopted by means of a public process that is similar to the process involved in the adoption of administrative rules, the ~~plans~~ plan, as initially adopted or as amended, shall not be a rule.

Sec. 3. 10 V.S.A. § 6603 is amended to read:

§ 6603. SECRETARY; POWERS

In addition to any other powers conferred on him or her by law, the secretary shall have the power to:

- (1) Adopt, amend and repeal rules pursuant to 3 V.S.A. chapter 25 of ~~Title 3~~ implementing the provisions of this chapter;

(2) Issue compliance orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings;

(3) Encourage local units of government to manage solid waste problems within their respective jurisdictions, or by contract on a cooperative regional or interstate basis;

(4) Provide technical assistance to municipalities;

(5) Contract in the name of the state for the service of independent contractors under bond, or with an agency or department of the state, or a municipality, to perform services or to provide facilities necessary for the implementation of the state plan, including but not limited to the transportation and disposition of solid waste;

(6) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. This would include the ability to convey such grants or other funds to municipalities, or other instruments of state or local government.

(7) Prepare a report which proposes methods and programs for the collection and disposal of household quantities of hazardous waste. The report shall compare the advantages and disadvantages of alternate programs and their costs. The secretary shall undertake a voluntary pilot project to determine the feasibility and effectiveness of such a program when in the secretary's opinion such can be undertaken without undue risk to the public health and welfare. Such pilot program may address one or more forms of hazardous waste.

(8) Provide financial assistance to municipalities.

(9) Manage the hazardous wastes generated, transported, treated, stored, or disposed in the state by administering a regulatory and management program which, at a minimum, meets the requirements of subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto, codified as 42 U.S.C. chapter 82, subchapter 3, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the secretary for such facility, site, or activity, except for sludge or septage

treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

(A) the treatment facility does not utilize a process to further reduce pathogens in order to qualify for marketing and distribution; and

(B) the facility is not a drying bed, lagoon, or nonconcrete bunker; and

(C) the owner of the facility has submitted a sludge and septage management plan to the secretary and the secretary has approved the plan. Noncompliance with an approved sludge and septage management plan shall constitute a violation of the terms of this chapter, as well as a violation under chapters 201 and 211 of this title.

(2) Certification shall be valid for a period not to exceed ten years, except that a certification issued to a sanitary landfill ~~or a household hazardous waste facility~~ under this section shall be for a period not to exceed five years.

(b) Certification for a solid waste management facility, where appropriate, shall:

(1) Specify the location of the facility, including limits on its development;

(2) Require proper operation and development of the facility in accordance with the engineering plans approved under the certificate;

(3) Specify the projected amount and types of waste material to be disposed of at the facility, which, in case of landfills and incinerators, shall include the following:

(A) if the waste is being delivered from a municipality that has an approved implementation plan, hazardous materials and recyclables shall be removed from the waste according to the terms of that implementation plan;

(B) if the waste is being delivered from a municipality that does not have an approved implementation plan, ~~yard waste~~ leaf and yard residuals shall be removed from the waste stream, ~~as shall a minimum of approximately 75 and 100 percent of each of the following~~ shall be removed from the waste stream: marketable mandated recyclables, hazardous waste from households, and hazardous waste from small quantity generators;

(4) Specify the type and numbers of suitable pieces of equipment that will operate the facility properly;

(5) Contain provisions for air, groundwater, and surface water monitoring throughout the life of the facility and provisions for erosion control, capping, landscaping, drainage systems, and monitoring systems for leachate and gas control;

(6) Contain such additional conditions, requirements, and restrictions as the secretary may deem necessary to preserve and protect the public health and the air, groundwater and surface water quality. This may include, ~~but is not limited to,~~ requirements concerning reporting, recording, and inspections of the operation of the site.

(c) The secretary shall not issue a certification for a new facility or renewal for an existing facility, except for a sludge or septage land application project, unless it is included in an implementation plan adopted pursuant to 24 V.S.A. § 2202a, for the area in which the facility is located. ~~The implementation plan must be consistent with the state plan and in conformance with any municipal or regional plan adopted in accordance with 24 V.S.A. chapter 117. After July 1, 1990, the secretary shall not recertify a facility except for a sludge or septage land application project unless it is included in an implementation plan adopted pursuant to 24 V.S.A. § 2202a, for the area in which the facility is located. The implementation plan must be consistent with the state plan, unless the secretary determines that recertification promotes the public interest, considering the policies and priorities established in this chapter. After July 1, 1990, the secretary shall not recertify a facility, unless it is in conformance with any municipal or regional plan adopted in accordance with 24 V.S.A. chapter 117.~~

* * *

(j) A facility certified under this section that offers the collection of municipal solid waste shall:

(1) Beginning July 1, 2014, collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables;

(2) Beginning July 1, 2015, collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)–(5) of this title.

(3) Beginning July 1, 2017, collect organic material separate from other solid waste and deliver organic material to a location that manages organic materials in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)–(5) of this title.

(k) The secretary may, by rule, adopt exemptions to the requirements of subsection (j) of this section, provided that the exemption is consistent with the purposes of this chapter and the objective of the state plan.

(l) A facility certified under this section that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables. A facility certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of municipal solid waste and may adjust the charge for the collection of municipal solid waste. A facility certified under this section may charge a separate fee for the collection of leaf and yard residuals or organic material.

Sec. 5. 10 V.S.A. § 6605c is amended to read:

§ 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

* * *

(b) The secretary may, by rule, list certain solid waste categories as eligible for certification pursuant to this section:

(1) Solid waste categories to be deposited in a disposal facility shall not be a source of leachate harmful to human health or the environment.

(2) Solid waste categories to be managed in a composting facility shall not present an undue threat to human health or the environment.

(3) ~~Solid waste managed~~ Recyclable materials either recycled or prepared for recycling at a recycling facility shall be restricted to facilities that manage 400 tons per year or less of recyclable solid waste.

* * *

Sec. 6. 10 V.S.A. § 6605k is added to read:

§ 6605k. ORGANIC MATERIAL; MANAGEMENT HIERARCHY

(a) It is the policy of the state that organic material collected under the requirements of this chapter shall be managed according to the following order of priority uses:

(1) Reduction of the amount generated at the source;

(2) Diversion for food consumption by humans;

(3) Diversion for agricultural use, including consumption by animals;

(4) Composting, nutrient management, and digestion; and

(5) Energy recovery.

(b) A person who produces more than an amount identified under subsection (c) of this section in organic materials and is located within 20 miles of a certified organics management facility that has available capacity and that is willing to accept the materials shall:

(1) Separate organic materials from other solid waste, provided that a de minimis amount of organic material may be disposed of in municipal solid waste when a person has established a program to separate organic materials and the program includes a component for the education of program users regarding the need to separate organic materials; and

(2) Arrange for the transfer of organic materials to a location that manages organic materials in a manner consistent with the priority uses established under subdivisions (a)(2)–(5) of this section or shall manage organic materials on site.

(c) The following persons shall be subject to the requirements of subsection (b) of this section:

(1) Beginning July 1, 2014, a person whose acts or processes produce more than 104 tons per year of organic materials;

(2) Beginning July 1, 2015, a person whose acts or processes produce more than 52 tons per year of organic materials;

(3) Beginning July 1, 2016, a person whose acts or processes produce more than 26 tons per year of organic materials;

(4) Beginning July 1, 2017, a person whose acts or processes produce more than 18 tons per year of organic materials; and

(5) Beginning July 1, 2020, any person who generates any amount of organic materials.

Sec. 7. 10 V.S.A. § 6605l is added to read:

§ 6605l. PUBLIC COLLECTION CONTAINERS FOR SOLID WASTE

(a) As used in this section:

(1) “Public building” means a state, county, or municipal building, airport terminal, bus station, railroad station, school building, or school.

(2) “Public land” means all land that is owned or controlled by a municipal or state governmental body.

(b) Beginning July 1, 2015, when a container or containers in a public building or on public land are provided to the public for use for solid waste destined for disposal, an equal number of containers shall be provided for the collection of mandatory recyclables. The containers shall be labeled to clearly

show the containers are for recyclables and shall be placed as close to each other as possible in order to provide equally convenient access to users. Bathrooms in public buildings and on public land shall be exempt from the requirement of this section to provide an equal number of containers for the collection of mandatory recyclables.

Sec. 8. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the state shall apply to the secretary for a permit to do so, by submitting an application on a form prepared for this purpose by the secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years. ~~The secretary shall establish a system whereby one fifth of the permits issued under this section, or that were issued prior to July 1, 1996, and shall be renewed annually. The secretary may extend the expiration date of permits issued under this section as of July 1, 1996, for up to four years.~~ The application shall indicate the nature of the waste to be hauled and the area to be served by the hauler. The secretary may specify conditions that the secretary deems necessary to assure compliance with state law. ~~If an area to be served is subject to a duly adopted flow control ordinance, the entity that adopted the flow control ordinance may notify the secretary of that fact on forms provided by the secretary, and shall specify the facility or facilities which must be the recipient of the waste from that area. The secretary shall issue to the applicant a permit which specifies those facilities to which the applicant must deliver waste collected from an area that is subject to a duly adopted flow control ordinance, and which otherwise contains the solid waste management conditions established by the secretary, sufficient to assure compliance with state law.~~

* * *

(g)(1) Except as set forth in subdivisions (2) and (3) of this subsection, a transporter certified under this section that offers the collection of municipal solid waste shall:

(A) Beginning July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)–(5) of this title.

(C) Beginning July 1, 2017, offer collection of organic materials separate from other solid waste and deliver to a location that manages organic materials in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)–(5) of this title.

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, leaf and yard residuals, or organic materials, a transporter in that municipality is not required to comply with the requirements of subdivision (g)(1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A transporter is not required to comply with the requirements of subdivision (1)(B) or (C) of this subsection in a specified area within a municipality if:

(A) the secretary has approved a solid waste implementation plan for the municipality;

(B) the approved plan delineates an area where solid waste management services required by subdivision (1)(B) or (C) of this subsection are not required; and

(C) in the delineated area, alternatives to the services required under subdivision (1)(B) or (C) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(h) A transporter certified under this section that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables from a residential customer. A transporter certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of municipal solid waste and may adjust the charge for the collection of municipal solid waste. A transporter certified under this section that offers the collection of municipal solid waste may charge a separate fee for the collection of leaf and yard residuals or organic waste from a residential customer.

Sec. 9. 10 V.S.A. § 6613 is amended to read:

§ 6613. VARIANCES

(a) A person who owns or is in control of any plant, building, structure, process, or equipment may apply to the secretary for a variance from the rules adopted under this chapter. The secretary may grant a variance if he or she finds that:

(1) The variance proposed does not endanger or tend to endanger human health or safety.

(2) Compliance with the rules from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(3) The variance granted does not enable the applicant to generate, transport, treat, store, or dispose of hazardous waste in a manner which is less stringent than that required by the provisions of Subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto, codified in 42 U.S.C. Chapter 82, subchapter 3, and regulations promulgated under such subtitle.

(b) A person who owns or is in control of any facility may apply to the secretary for a variance from the requirements of subdivision 6605(j)(2) or (3) of this title if the applicant demonstrates alternative services are available in the area served by the facility, the alternative services have capacity to serve the needs of all persons served by the facility requesting the variance, and the alternative services are convenient to persons served by the facility requesting the variance.

(c) No variance shall be granted pursuant to this section except after public notice and an opportunity for a public meeting and until the secretary has considered the relative interests of the applicant, other owners of property likely to be affected, and the general public.

~~(e)~~(d) Any variance or renewal thereof shall be granted within the requirements of subsection (a) of this section and for time periods and under conditions consistent with the reasons therefore, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air and water pollution involved, it shall be only until the necessary practicable means for prevention, abatement, or control become known and available, and subject to the taking of any substitute or alternate measures that the secretary may prescribe.

(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will

necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the secretary, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a time schedule for the taking of action in an expeditious manner and shall be conditioned on adherence to the time schedule.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subdivisions (1) and (2) of this subsection, it shall be for not more than one year, except that in the case of a variance from the siting requirements for a solid waste management facility, the variance may be for as long as the secretary determines necessary, including a permanent variance.

~~(d)~~(e) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods, which would be appropriate on initial granting of a variance. If a complaint is made to the secretary on account of the variance, no renewal thereof shall be granted, unless following public notice and an opportunity for a public meeting on the complaint, the secretary finds that renewal is justified. No renewal shall be granted except on application therefore. The application shall be made at least 60 days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the secretary shall give public notice of the application.

~~(e)~~(f) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the secretary.

~~(f)~~(g) This section does not limit the authority of the secretary under section 6610 of this title concerning imminent hazards from solid waste, nor under section 6610a of this title concerning hazards from hazardous waste and violations of statutes, rules or orders relating to hazardous waste.

Sec. 10. 10 V.S.A. § 6621a is amended to read:

§ 6621a. LANDFILL DISPOSAL REQUIREMENTS

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in municipal solid waste ~~in landfills~~:

(1) Lead-acid batteries, after July 1, 1990.

(2) Waste oil, after July 1, 1990.

(3) White goods, after January 1, 1991. "White goods" include discarded refrigerators, washing machines, clothes ~~driers~~ dryers, ranges, water heaters, dishwashers, and freezers. Other similar domestic and commercial large appliances may be added, as identified by rule of the secretary.

(4) Tires, after January 1, 1992.

(5) Paint (whether water based or oil based), paint thinner, paint remover, stains, and varnishes. This prohibition shall not apply to solidified water based paint in quantities of less than one gallon, nor shall this prohibition apply to solidified water based paint in quantities greater than one gallon if those larger quantities are from a waste stream that has been subject to an effective paint reuse program, as determined by the secretary.

(6) ~~Nickel-cadmium batteries, small sealed lead acid batteries, and nonconsumer mercuric oxide batteries, after July 1, 1992, in any district or municipality in which there is an ongoing program to accept these wastes for treatment~~ All batteries, except alkaline batteries.

(7)(A) Labeled mercury-added products on or before July 1, 2007.

(B) Mercury-added products, as defined in chapter 164 of this title, after July 1, 2007, except as other effective dates are established in that chapter.

(8) Banned electronic devices. After January 1, 2011, computers; peripherals; computer monitors; cathode ray tubes; televisions; printers; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; wireless telephones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (as used to charge electronic devices).

(9) Mandated recyclable materials after July 1, 2015.

(10) Leaf and yard residuals and wood waste after July 1, 2016.

(11) Organic material after July 1, 2020.

(b) This section shall not prohibit the designation and use of separate areas at landfills for the storage or processing, or both, of material specified in this section.

(c) Insofar as it applies to the operator of a solid waste management facility, the secretary may suspend the application of this section to material specified in subdivisions (a)(2), (3), (4), (5), or (6) of this section, or any combination of these, upon finding that insufficient markets exist and adequate uses are not reasonably available to serve as an alternative to disposal.

Sec. 11. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

* * *

(21) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste; ~~and~~

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps; and

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a municipal solid waste implementation plan that is consistent with the state solid waste plan.

Sec. 12. 10 V.S.A. § 8503(g) is added to read:

(g) This chapter shall govern all appeals of an act or decision of the secretary of natural resources that a municipal solid waste implementation plan proposed under 24 V.S.A. § 2202a conforms with the state solid waste implementation plan adopted pursuant to section 6604 of this title.

Sec. 13. 24 V.S.A. § 2202a is amended to read:

§ 2202a. MUNICIPALITIES-RESPONSIBILITIES FOR SOLID WASTE

(a) Municipalities are responsible for the management and regulation of the storage, collection, processing, and disposal of solid wastes within their jurisdiction in conformance with the state solid waste management plan authorized under 10 V.S.A. chapter 159 of Title 10. Municipalities may issue exclusive local franchises and may make, amend, or repeal rules necessary to manage the storage, collection, processing, and disposal of solid waste materials within their limits and impose penalties for violations thereof, provided that the rules are consistent with the state plan and rules ~~promulgated~~ adopted by the secretary of the agency of natural resources under 10 V.S.A. chapter 159. A fine may not exceed \$1,000.00 for each violation. This section shall not be construed to permit the existence of a nuisance.

(b) Municipalities may satisfy the requirements of the state solid waste management plan and the rules of the secretary of the agency of natural resources through agreement between any other unit of government or any operator having a permit from the secretary, as the case may be.

(c)(1) No later than July 1, 1988 each municipality, as defined in subdivision 4303(12) of this title, shall join or participate in a solid waste management district organized pursuant to chapter 121 of this title no later than January 1, 1988 or participate in a regional planning commission's planning effort for purposes of solid waste implementation planning, as implementation planning is defined in 10 V.S.A. § 6602.

(2) No later than July 1, 1990 each regional planning commission shall work on a cooperative basis with municipalities within the region to prepare a solid waste implementation plan for adoption by all of the municipalities within the region which are not members of a solid waste district, that conforms to the state waste management plan and describes in detail how the region will achieve the priorities established by 10 V.S.A. § 6604(a)(1). A solid waste implementation plan adopted by a municipality that is not a member of a district shall not in any way require the approval of a district. No later than July 1, 1990 each solid waste district shall adopt a solid waste implementation plan that conforms to the state waste management plan, describes in detail how the district will achieve the priorities established by 10 V.S.A. § 6604(a)(1), and is in conformance with any regional plan adopted pursuant to chapter 117 of this title. Municipalities or solid waste management districts that have contracts in existence as of January 1, 1987, which contracts are inconsistent with the state solid waste plan and the priorities established in 10 V.S.A. § 6604(a)(1), shall not be required to breach those contracts, provided they make good faith efforts to renegotiate those contracts in order to comply. The secretary may extend the deadline for completion of a plan upon finding that despite good faith efforts to comply, a regional planning commission or solid waste management district has been unable to comply, due to the unavailability of planning assistance funds under 10 V.S.A. § 6603b(a) or delays in completion of a landfill evaluation under 10 V.S.A. § 6605a.

(3) A municipality that does not join or participate as provided in this subsection shall not be eligible for state funds to plan and construct solid waste facilities, nor can it use facilities certified for use by the region or by the solid waste management district.

(4) ~~By no later than July 1, 1992, a~~ A regional plan or a solid waste implementation plan shall include a component for the management of nonregulated hazardous wastes.

(A) At the outset of the planning process for the management of nonregulated hazardous wastes and throughout the process, solid waste management districts or regional planning commissions, with respect to areas not served by solid waste management districts, shall solicit the participation of owners of solid waste management facilities that receive mixed solid wastes, local citizens, businesses and organizations by holding informal working sessions that suit the needs of local people. At a minimum, an advisory committee composed of citizens and business persons shall be established to provide guidance on both the development and implementation of the nonregulated hazardous waste management plan component.

(B) The regional planning commission or solid waste management district shall hold at least two public hearings within the region or district after public notice on the proposed plan component or amendment.

(C) The plan component shall be based upon the following priorities, in descending order:

(i) The elimination or reduction, whenever feasible, in the use of hazardous, particularly toxic, substances.

(ii) Reduction in the generation of hazardous waste.

(iii) Proper management of household and exempt small quantity generator hazardous waste.

(iv) Reduction in the toxicity of the solid waste stream, to the maximum extent feasible in accordance with the priorities of 10 V.S.A. § 6604(a)(1).

(D) At a minimum, this plan component shall include the following:

(i) An analysis of preferred management strategies that identifies advantages and disadvantages of each option.

(ii) An ongoing educational program for schools and households, promoting the priorities of this subsection.

(iii) An educational and technical assistance program for exempt small quantity generators that provides information on the following: use and waste reduction; preferred management strategies for specific waste streams; and collection, management and disposal options currently or potentially available.

(iv) A management program for household hazardous waste.

(v) A priority management program for unregulated hazardous waste streams that present the greatest risks.

(vi) A waste diversion program element, that is coordinated with any owners of solid waste management facilities and is designed to remove unregulated hazardous waste from the waste stream entering solid waste facilities and otherwise to properly manage unregulated hazardous waste.

(vii) A waste management system established for all the waste streams banned from landfills under 10 V.S.A. § 6621a.

(E) For the purposes of this subsection, nonregulated hazardous wastes include hazardous wastes generated by households and exempt small quantity generators as defined in the hazardous waste management regulations adopted under 10 V.S.A. chapter 159.

(d) By no later than July 1, 2015, a municipality shall implement a variable rate pricing system that charges for the collection of municipal solid waste from a residential customer for disposal based on the volume or weight of the waste collected.

Sec. 14. ANR REPORT ON SOLID WASTE

On or before November 1, 2013, the secretary of natural resources shall submit to the house and senate committees on natural resources and energy a report addressing solid waste management in the state. At a minimum, the report shall include:

(1) Waste analysis. An analysis of the volume and nature of wastes generated in the state, the sources of those wastes, and the current fate or disposition of those wastes. This shall include the results of a waste composition study.

(2) Cost analysis.

(A) An estimate of the cost of implementation of the existing solid waste management system for the state;

(B) An estimate of the cost of managing individual categories of solid waste as that term is defined in 10 V.S.A. § 6604(a)(2)(B); and

(C) An estimate of the costs, cost savings, increased efficiencies, and economic opportunities attendant to the diversion of solid waste categories.

(3) Local governance analysis. The report shall provide an analysis of the services provided by municipalities responsible for the management and regulation of the storage, collection, processing, and disposal of solid waste under 24 V.S.A. § 2202a. The analysis shall summarize:

(A) The organizational structure municipalities use to provide solid waste services, including the number of solid waste districts in the state and the number of towns participating in a solid waste district;

(B) The type of solid waste services provided by municipalities, including the categories of solid waste collected and the disposition of collected solid waste;

(C) The effectiveness of those facilities and programs in achieving the priorities and goals established by the state solid waste plan; and

(D) The cost-effectiveness of solid waste services provided by municipalities.

(4) Infrastructure analysis.

(A) An assessment of facilities and programs necessary at the state, regional, or local level to achieve the priorities and the goals established in the state solid waste plan.

(B) An estimate of the landfill capacity available in Vermont and an estimated time at which there will be no landfill capacity remaining in the state.

(C) An assessment of the status, capacity, and life expectancy of existing solid waste management facilities.

(D) An estimate of the cost of infrastructure necessary for the mandatory recycling of categories of solid waste.

Sec. 15. REPEAL

10 V.S.A. § 7113 (advisory committee on mercury pollution) is repealed.

Sec. 16. AGENCY OF NATURAL RESOURCES REPORT OF WASTE

TIRE MANAGEMENT AND DISPOSAL

On or before January 15, 2013, the secretary of natural resources shall submit to the house and senate committees on natural resources and energy a report regarding the management of waste tires within the state. The report shall include:

(1) An inventory of sites in the state where the secretary determines, in his or her discretion, that the disposal, management, or disposition of waste tires is a problem.

(2) An estimate of the number of waste tires disposed of or stored at the problem sites identified under subdivision (1) of this section.

(3) An estimate of how much it would cost to properly dispose of or arrange for the final disposition of the number of waste tires estimated under subdivision (2) of this section.

(4) An estimate of the amount of time required for the proper disposal or final disposition of the number of waste tires estimated under subdivision (2) of this section.

Sec. 17. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Thereupon, **Rep. Donahue of Northfield** moved to amend the report of the committee on Natural Resources and Energy as follows:

In Sec. 13, 24 V.S.A. § 2202a(c)(4)(D), by inserting subdivision (viii) to read as follows:

(viii) A mechanism to provide transparency or explanation regarding how a rate structure approved under the plan addresses different categories of waste.

Which was agreed to.

Thereupon, the report of the committee on Natural Resources and Energy, as amended, was agreed to and third reading ordered.

Adjournment

At two o'clock and twenty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, March 2, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Elissa Johnk, Senior Minister, Old Meeting House in East Montpelier, VT.

Committee Bill Introduced

H. 764

Rep. Fisher of Lincoln, for the committee on Health Care, introduced a bill, entitled

An act relating to health insurance brokers' fees

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Committee Bill Introduced

H. 765

Rep. Emmons of Springfield, for the committee on Corrections and Institutions, introduced a bill, entitled

An act relating to the mental health needs of the corrections population

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Bill Referred to Committee on Appropriations**H. 763**

House bill, entitled

An act relating to the billing and collection of the statewide education property tax by the department of taxes

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Placed on Calendar**J.R.H. 28**

Joint resolution congratulating the Republic of China (Taiwan), President Ma Ying-jeou, and the 23 million Taiwanese people on their successful 2012 democratic elections and urging support for Taiwan's participation in various international organizations

Offered by: Representatives Leriche of Hardwick and Marcotte of Coventry

Whereas, on January 14, 2012, the Republic of China (Taiwan) held a successful democratically conducted election for president, vice president, and the legislature, demonstrating it is a beacon for freedom and democracy, and

Whereas, recently re-elected President Ma Ying-jeou has worked tirelessly to uphold democratic principles in Taiwan, ensure the prosperity of the Taiwanese people, promote its standing as a responsible member of the international community, increase participation in international organizations, dispatch humanitarian missions abroad, and further improve relations between the United States and Taiwan, and

Whereas, the United States and the Republic of China (Taiwan), and especially the State of Vermont, share an historically close relationship, marked by strong bilateral trade, educational and cultural exchanges, scientific and technological interests, and tourism, and

Whereas, in December 2011, Taiwan was nominated to participate in the United States Visa Waiver Program, and

Whereas, the United States ranks as Taiwan's third largest trading partner and Taiwan is the 10th largest trading partner of the United States, and bilateral trade reached \$62 billion with exports to Taiwan totaling approximately \$25 billion in 2011, and Vermont's exports to Taiwan totaled \$154 million in 2010, and

Whereas, on November 12, 2011, President Barack Obama and the leaders of eight Trans-Pacific Partnership countries announced the achievement of the broad outlines for a 21st century Trans-Pacific Partnership agreement which will forge close links among economies, enhance competitiveness, and benefit consumers, and

Whereas, the Asia-Pacific region is the largest market in the world for U.S. exports, and \$3.9 billion, or 93 percent, of Vermont's total exports went to markets in that region, and

Whereas, exports to Taiwan are estimated to support 12,300 Vermont jobs, and the latest available data (2009) indicated that 898 companies exported goods from Vermont, and

Whereas, Taiwan is the world's seventeenth largest trading economy and a member of the Asia-Pacific Economic Cooperation Forum, and

Whereas, the United Nations Framework Convention on Climate Change is the leading international agency addressing climate change, and Taiwan desires and should be granted membership in this important organization, and

Whereas, it remains in the interest of the traveling public that Taiwan be included in the International Civil Aviation Organization since Taiwan is a key transport hub in the Asia-Pacific region, and the Taipei Flight Information Region which is under Taiwan's jurisdiction covers an area of 176,000 square nautical miles with 1.35 million controlled flights annually passing through, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly congratulates the Republic of China (Taiwan), President Ma Ying-jeou, and the 23 million Taiwanese people on their successful 2012 democratic elections and urges support for Taiwan's participation in various international organizations and agreements, including the Trans-Pacific Partnership, the United Nations Framework Convention on Climate Change, and the International Civil Aviation Organization, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to President Barack Obama, Governor Peter Shumlin, the Vermont Congressional Delegation, Taiwanese President Ma Ying-jeou, and Anne Hung, Director-General of the Taipei Economic and Cultural Office in Boston.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Joint Resolution Placed on Calendar**J.R.H. 29**

Joint resolution commemorating Women's History Month, the publication of the sixth edition of *The Legal Rights of Women in Vermont*, and reaffirming continuing support for equal rights for women

Offered by: Representatives Taylor of Barre City, Ancel of Calais, Bartholomew of Hartland, Batchelor of Derby, Bissonnette of Winooski, Branagan of Georgia, Browning of Arlington, Burke of Brattleboro, Buxton of Tunbridge, Campion of Bennington, Cheney of Norwich, Christie of Hartford, Clarkson of Woodstock, Conquest of Newbury, Consejo of Sheldon, Copeland-Hanzas of Bradford, Courcelle of Rutland City, Dakin of Chester, Davis of Washington, Donovan of Burlington, Edwards of Brattleboro, Ellis of Waterbury, Emmons of Springfield, Evans of Essex, Frank of Underhill, French of Shrewsbury, Grad of Moretown, Haas of Rochester, Head of South Burlington, Hooper of Montpelier, Jerman of Essex, Kitzmiller of Montpelier, Klein of East Montpelier, Komline of Dorset, Krebs of South Hero, Lanpher of Vergennes, Lawrence of Lyndon, Lenes of Shelburne, Lippert of Hinesburg, Lorber of Burlington, Macaig of Williston, Malcolm of Pawlet, Manwaring of Wilmington, Marek of Newfane, Martin of Wolcott, Masland of Thetford, McAllister of Highgate, McCullough of Williston, McNeil of Rutland Town, Miller of Shaftsbury, Mook of Bennington, Munger of South Burlington, Myers of Essex, O'Brien of Richmond, O'Sullivan of Burlington, Partridge of Windham, Pearson of Burlington, Poirier of Barre City, Potter of Clarendon, Pugh of South Burlington, Ralston of Middlebury, Ram of Burlington, Russell of Rutland City, Scheuermann of Stowe, Shand of Weathersfield, Shaw of Pittsford, Stevens of Waterbury, Stevens of Shoreham, Stuart of Brattleboro, Sweaney of Windsor, Till of Jericho, Toll of Danville, Waite-Simpson of Essex, Webb of Shelburne, Wizowaty of Burlington, Yantachka of Charlotte and Zagar of Barnard

Whereas, the month of March is Women's History Month, an annual worldwide celebration highlighting the contributions of women in history and society, and

Whereas, many Vermonters, both men and women, have fought for equal rights for women under the law, and

Whereas, Clarina Howard Nichols, a journalist and advocate for women's rights, temperance, and antislavery, was the first women to address the Vermont legislature, and she contributed to reform of married women's property rights in 1847 and introduced school suffrage for women in Vermont, and

Whereas, the contributions of many other Vermont women may be found in the Vermont Women's History Project database maintained by the Vermont Historical Society, and

Whereas, in order to access justice under the law, women need to understand their rights, and

Whereas, the Vermont Commission on Women has published a handbook for this purpose since 1977 called *The Legal Rights of Women in Vermont*, and the sixth edition of this handbook has now been digitally published on the commission's website, www.women.vermont.gov, and the commission will assist those without a computer, and

Whereas, written in plain English, this comprehensive guide is an up-to-date digital resource providing explanations of many topics, and each chapter concludes with links to the commission's online resource directory and to federal and state statutory websites that enable the reader to find and read applicable laws, and

Whereas, while written for women, *The Legal Rights of Women in Vermont* covers legal issues affecting all Vermonters, including: adoption, guardianship and emancipated minors, consumer protection and fair credit, domestic relations; education, employment rights, housing and property rights, immigration, insurance, name changes, public accommodations, public assistance and government benefits, reproductive rights, violence against women and children; and wills, probate court, and advanced directives, and

Whereas, Vermont Women's History Project, a program through the Vermont Historical Society, is a dynamic database of all Vermont women who have contributed to our state's history, including Vermont's first 100 women lawyers, and

Whereas, on March 21, 2012 at 12:00 noon, the Vermont Women's History Project is sponsoring a panel discussion with four women lawyers who have made strides in women's legal rights, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly commemorates Women's History Month and the publication of the sixth edition of *The Legal Rights of Women in Vermont* and reaffirms its continuing support of equal rights for women, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Women's History Project, the Vermont Commission on Women, and the Women's Section of the Vermont Bar Association.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Bill Amended, Read Third Time and Passed

H. 485

House bill, entitled

An act relating to establishing universal recycling of solid waste

Was taken up and pending third reading of the bill, **Rep. Bartholomew of Hartland** moved to amend the bill as follows:

In Sec. 4, 10 V.S.A. § 6605, in subsection (l), in the first sentence, after "a separate fee for the collection of mandated recyclables" and before the period, by inserting "and shall not charge a residential customer a fee for access to the facility in order to deposit mandated recyclables for collection"

Thereupon, **Rep. Bartholomew of Hartland** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Rep. Jerman of Essex** moved to amend the bill as follows:

By adding Sec. 16a to read:

Sec. 16a. 10 V.S.A. § 6618(b) is amended to read:

(b) The secretary may authorize disbursements from the solid waste management assistance account for the purpose of enhancing solid waste management in the state in accordance with the adopted waste management plan. This includes:

* * *

(10) the costs of the proper disposal of waste tires. Prior to disbursing funds under this subsection, the secretary shall provide a person with notice and opportunity to properly dispose of waste tires. The secretary may condition a disbursement under this subsection on the repayment of the disbursement. If a person fails to provide repayment subject to the terms of a disbursement, the secretary may initiate an action against the person for repayment to the fund or may record against the property of the person a lien for the costs of cleaning up waste tires at a property.

Which was agreed to.

Pending third reading of the bill, **Rep. Olsen of Jamaica** moved to amend the bill as follows:

First: In Sec. 1, 10 V.S.A. § 6602, by striking subdivision 19 in its entirety and inserting in lieu thereof the following:

(19) “Implementation plan” means that plan which is adopted to be consistent with the state solid waste management plan. This plan must include all the elements required for consistency with the state plan and an applicable regional plan and shall be approved by the secretary. This implementation plan is the basis for state certification of facilities under subsection 6605(c) of this title.

Second: In Sec. 13, 24 V.S.A. § 2202a is amended by adding subsection (e) to read:

(e) The education and outreach requirements of this section need not be met through direct mailings, but may be met through other methods such as television and radio advertising; use of the Internet, social media, or electronic mail; or the publication of informational pamphlets or materials.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 691

Rep. Botzow of Pownal moved that the committee on Commerce and Economic Development be relieved of House bill, entitled

An act relating to prohibiting collusion as an antitrust violation

And that the bill be committed to the committee on Judiciary, which was agreed to.

**Rules Suspended; Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed; Rules Suspended
and the Bill was Ordered Messaged to the Senate Forthwith**

H. 630

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to reforming Vermont’s mental health system

Appearing on the Calendar for notice, was taken up for immediate consideration.

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

Sec. 1. PURPOSE

(a) It is the intent of the general assembly to strengthen Vermont's existing mental health care system by offering a continuum of community and peer services, as well as a range of acute inpatient beds throughout the state. This system of care shall be designed to provide flexible and recovery-oriented treatment opportunities and to ensure that the mental health needs of Vermonters are served.

(b) It is also the intent of the general assembly that the agency of human services fully integrate all mental health services with all substance abuse, public health, and health care reform initiatives, consistent with the goals of parity.

Sec. 1a. 18 V.S.A. chapter 174 is added to read:

CHAPTER 174. MENTAL HEALTH SYSTEM OF CARE

§ 7251. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

The general assembly adopts the following principles as a framework for reforming the mental health care system in Vermont:

(1) The state of Vermont shall meet the needs of individuals with mental health conditions, including the needs of individuals in the custody of the commissioner of corrections, and the state's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the departments of mental health and of corrections, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with mental health conditions receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system, including the location of any new inpatient psychiatric facilities adjacent to or incorporated with a medical hospital.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics and geography to increase the likelihood of treatment as close to the patient's

home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The state's mental health system shall ensure that the legal rights of individuals with mental health conditions are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

(9) Individuals with a mental health condition who are in the custody of the commissioner of mental health and who receive treatment in an acute inpatient hospital, intensive residential recovery facility, or a secure residential facility shall be afforded the same rights and protections as those individuals cared for at the former Vermont State Hospital.

§ 7252. DEFINITIONS

As used in this chapter:

(1) "Adult outpatient services" means flexible services responsive to individuals' preferences, needs, and values that are necessary to stabilize, restore, or improve the level of social functioning and well-being of individuals with mental health conditions, including individual and group treatment, medication management, psychosocial rehabilitation, and case management services.

(2) "Designated agency" means a designated community mental health and developmental disability agency as described in subsection 8907(a) of this title.

(3) "Designated area" means the counties, cities, or towns identified by the department of mental health that are served by a designated agency.

(4) "Enhanced programming" means targeted, structured, and specific intensive mental health treatment and psychosocial rehabilitation services for individuals in individualized or group settings.

(5) "Intensive residential recovery facility" means a licensed program under contract with the department of mental health that provides a safe, therapeutic, recovery-oriented residential environment to care for individuals with one or more mental health conditions who need intensive clinical interventions to facilitate recovery in anticipation of returning to the community. This facility shall be for individuals not in need of acute inpatient care and for whom the facility is the least restrictive and most integrated setting.

(6) “Mobile support team” means professional and peer support providers who are able to respond to an individual where he or she is located during a crisis situation.

(7) “Noncategorical case management” means service planning and support activities provided for adults by a qualified mental health provider, regardless of program eligibility criteria or insurance limitations.

(8) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provide high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(9) “Participating hospital” means a hospital under contract with the department of mental health to participate in the no refusal system.

(10) “Peer” means an individual who has a personal experience of living with a mental health condition or psychiatric disability.

(11) “Peer services” means support services provided by trained peers or peer-managed organizations focused on helping individuals with mental health and other co-occurring conditions to support recovery.

(12) “Psychosocial rehabilitation” means a range of social, educational, occupational, behavioral, and cognitive interventions for increasing the role performance and enhancing the recovery of individuals with serious mental illness, including services that foster long-term recovery and self-sufficiency.

(13) “Recovery-oriented” describes a category of mental health services that is responsive to individuals’ preferences, needs, and values and that empowers an individual to take responsibility for his or her sustained health, wellness, and recovery.

(14) “Serious bodily injury” means the same as in section 1912 of this title.

(15) “Warm line” means a nonemergency telephone response line operated by trained peers for the purpose of active listening and assistance with problem-solving for persons in need of such support.

§ 7253. CLINICAL RESOURCE MANAGEMENT AND OVERSIGHT

The commissioner of mental health, in consultation with health care providers as defined in section 9432 of this title, including designated hospitals, designated agencies, individuals with mental health conditions, and other stakeholders, shall design and implement a clinical resource management

system that ensures the highest quality of care and facilitates long-term, sustained recovery for individuals in the custody of the commissioner.

(1) For the purpose of coordinating the movement of individuals across the continuum of care to the most appropriate services, the clinical resource management system shall:

(A) ensure that all individuals in the care and custody of the commissioner receive the highest quality and least restrictive care necessary;

(B) develop a process for receiving direct patient input on treatment opportunities and the location of services;

(C) use state-employed clinical resource management coordinators to work collaboratively with community partners, including designated agencies, hospitals, individuals with mental health conditions, and peer groups, to ensure access to services for individuals in need. Clinical resource management coordinators or their designees shall be available 24 hours a day, seven days a week to assist emergency service clinicians in the field to access necessary services;

(D) use an electronic, web-based bed board to track in real time the availability of bed resources across the continuum of care;

(E) use specific level-of-care descriptions, including admission, continuing stay, and discharge criteria, and a mechanism for ongoing assessment of service needs at all levels of care;

(F) specify protocols for medical clearance, bed location, transportation, information sharing, census management, and discharge or transition planning;

(G) coordinate transportation resources so that individuals may access the least restrictive mode of transport consistent with safety needs;

(H) ensure that to the extent patients' protected health information pertaining to any identifiable person that is otherwise confidential by state or federal law is used within the clinical resource management system, the health information exchange privacy standards and protocols as described in subsection 9351(e) of this title shall be followed;

(I) review the options for the use of ambulance transport, with security as needed, as the least restrictive mode of transport consistent with safety needs required pursuant to section 7511 of this title; and

(J) ensure that individuals under the custody of the commissioner being served in designated hospitals, intensive residential recovery facilities, and the secure residential recovery facility shall have access to a mental health

patient representative. The patient representative shall advocate for patients and shall also foster communication between patients and health care providers. The department of mental health shall contract with an independent, peer-run organization to staff the full-time equivalent of a patient representative.

(2) For the purpose of maintaining the integrity and effectiveness of the clinical resource management system, the department of mental health shall:

(A) require a designated team of clinical staff to review the treatment received and clinical progress made by individuals within the commissioner's custody;

(B) coordinate care across the mental and physical health care systems as well as ensure coordination within the agency of human services, particularly the department of corrections, the department of health's alcohol and drug abuse programs, and the department of disabilities, aging, and independent living;

(C) coordinate service delivery with Vermont's Blueprint for Health and health care reform initiatives, including the health information exchange as defined in section 9352 of this title and the health benefit exchange as defined in 33 V.S.A. § 1803;

(D) use quality indicators, manageable data requirements, and quality improvement processes to monitor, evaluate, and continually improve the outcomes for individuals and the performance of the clinical resource management system;

(E) actively engage stakeholders and providers in oversight processes; and

(F) provide mechanisms for dispute resolution.

§ 7254. INTEGRATION OF THE TREATMENT FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND PHYSICAL HEALTH

(a) The director of health care reform and the commissioners of mental health, of health, and of Vermont health access and the Green Mountain Care board or designees shall ensure that the redesign of the mental health delivery system established in this act is an integral component of the health care reform efforts established in 3 V.S.A. § 2222a. Specifically, the director, commissioners, and board shall confer on planning efforts necessary to ensure that the following initiatives are coordinated and advanced:

(1) any health information technology projects;

(2) the integration of health insurance benefits in the Vermont health benefit exchange to the extent feasible under federal law;

(3) the integration of coverage under Green Mountain Care;

(4) the Blueprint for Health;

(5) the reformation of payment systems for health services to the extent allowable under federal law or under federal waivers; and

(6) other initiatives as necessary.

(b) The department of banking, insurance, securities, and health care administration shall ensure that private payers are educated about their obligation to reimburse providers for less restrictive and less expensive alternatives to hospitalization.

§ 7255. SYSTEM OF CARE

The commissioner of mental health shall coordinate a geographically diverse system and continuum of mental health care throughout the state that may include at least the following:

(1) peer services, which may include:

(A) a warm line;

(B) peer-provided transportation services; and

(C) peer-supported crisis services.

(2) comprehensive and coordinated community services to serve children, families, and adults at all stages of mental illness;

(3) peer-supported programs that allow for minimal use of medication and facilitate hospital diversion through a nontraditional, interpersonal, and psychosocial approach to recovery;

(4) housing subsidies or other programs for the purpose of fostering stable and appropriate living conditions to support recovery;

(5) intensive residential recovery facilities;

(6) appropriate adequate psychiatric inpatient capacity for voluntary patients;

(7) appropriate adequate psychiatric inpatient capacity for involuntary inpatient treatment services, including patients receiving treatment through court order from the civil and criminal courts; and

(8) a secure residential recovery facility.

§ 7256. REPORTING REQUIREMENTS

Notwithstanding 2 V.S.A. § 20(d), the department of mental health shall report annually on or before January 15 to the senate committee on health and welfare and the house committee on human services regarding the extent to which individuals with mental health conditions receive care in the most integrated and least restrictive setting available. The report shall address:

(1) Utilization of services across the continuum of mental health services;

(2) Adequacy of the capacity at each level of care across the continuum of mental health services;

(3) Patient experience of care and satisfaction;

(4) Patient recovery in terms of clinical, social, and legal outcomes; and

(5) Performance of the state's mental health system of care as compared to nationally recognized standards of excellence.

§ 7257. ADVERSE COMMUNITY EVENTS

The department of mental health shall establish a system that ensures the comprehensive review of a death or serious bodily injury occurring outside of an acute inpatient hospital when the individual causing or victimized by the death or serious bodily injury is in the custody of the commissioner or had been in the custody of the commissioner within six months of the event. The department shall review each event for the purpose of determining whether the death or serious bodily injury was the result of inappropriate or inadequate services within the mental health system and, if so, how the failure shall be remedied.

§ 7258. REPORTABLE ADVERSE EVENTS

An acute inpatient hospital, an intensive residential recovery facility, or a secure residential facility shall report to the department of mental health instances of death or serious bodily injury to individuals with a mental health condition in the custody of the commissioner.

Sec. 2. DELETED

Sec. 3. DELETED

Sec. 4. DELETED

Sec. 5. DELETED

Sec. 6. PEER SERVICES

The commissioner of mental health is authorized to contract for new peer services and to expand existing programs managed by peers that provide support to individuals living with or recovering from mental illness. Peer

services shall be aimed at helping individuals with mental illness achieve recovery through improved physical and mental health, increased social and community connections and supports, and the avoidance of mental health crises and psychiatric hospitalizations. The commissioner of mental health shall:

(1) Establish a warm line or warm lines accessible statewide which shall be staffed at all times to ensure that individuals with a mental health condition have access to peer support;

(2) Establish new peer services focused on reducing the need for inpatient services;

(3) Improve the quality, infrastructure, and workforce development of peer services; and

(4) Develop peer-run transportation services.

Sec. 7. COMMUNITY SERVICES

To improve existing community services and to create new opportunities for community treatment, the commissioner of mental health is authorized to:

(1) Improve emergency responses, mobile support teams, noncategorical case management, adult outpatient services, and alternative residential opportunities at designated agencies.

(A) Each designated agency shall provide the scope and category of services most responsive to the needs of designated areas, as determined by the commissioner of mental health.

(B) Designated agencies shall work collaboratively with law enforcement officials, corrections, local hospitals, and peers to integrate services and expand treatment opportunities for individuals living with or recovering from mental illness.

(2) Contract for at least four additional short-term crisis beds in designated agencies for the purpose of preventing or diverting individuals from hospitalization when clinically appropriate and for the purpose of increasing regional access to crisis beds.

(3) Contract for a voluntary five-bed residence for individuals seeking to avoid or reduce reliance on medication or having an initial episode of psychosis. The residence shall be peer supported and noncoercive, and treatment shall be focused on a nontraditional, interpersonal, and psychosocial approach, with minimal use of psychotropic medications to facilitate recovery in individuals seeking an alternative to traditional hospitalization.

(4) Provide housing subsidies to individuals living with or recovering from mental illness for the purpose of fostering stable and appropriate living conditions. If necessary to achieve successful housing outcomes, housing subsidies may be provided without an agreement to accept certain services as a condition of assistance. The department of mental health shall ensure that housing subsidies are monitored and managed in coordination with other relevant community services and supports.

Sec. 8. INTENSIVE RESIDENTIAL RECOVERY FACILITIES

(a) To support the development of intensive residential recovery facilities, the commissioner of mental health is authorized to contract for:

- (1) Fifteen beds located in northwestern Vermont;
- (2) Eight beds located in southeastern Vermont; and
- (3) Eight beds located in either central or southwestern Vermont or both.

(b) Notwithstanding 18 V.S.A. § 9435(b), all facilities contracted for under subsection (a) of this section shall be subject to the certificate of approval process, which shall take into consideration the recommendations of a panel of stakeholders appointed by the commissioner to review each proposal and conduct a public hearing.

Sec. 9. INPATIENT HOSPITAL BEDS

(a) To replace the services provided at the Vermont State Hospital, the department of mental health shall oversee the delivery of emergency examination and involuntary inpatient treatment services at four acute inpatient hospitals throughout the state:

(1) The department of mental health shall enter into contracts that meet the requirements of subdivision (2) of this subsection with a hospital in southeastern Vermont and a hospital in southwestern Vermont for the establishment of a 14-bed unit and a six-bed unit, respectively, contingent upon receipt by the hospitals of certificates of need pursuant to 18 V.S.A. chapter 221, subchapter 5. Certificate of need applications for the 14-bed unit and the six-bed unit, whether prepared jointly by a hospital and the department or solely by a hospital, shall be reviewed by the commissioner of mental health prior to a certificate of need approval to ensure the architectural and program proposals meet industry standards for quality of care and emotional and physical safety standards and otherwise protect patients' rights.

(2) Initial contract terms for the 14-bed unit and the six-bed unit shall require participation in the no refusal system for four years and until the facility has recouped its initial investment. Contracts referenced in subdivision (1) of this subsection shall apply to participating hospitals, notwithstanding

their status as designated hospitals, and shall contain the following requirements:

(A) Funding shall be based on the ability to treat patients with high acuity levels;

(B) Units shall be managed as part of a statewide no refusal system;

(C) Reimbursement by the state shall cover actual costs for enhanced programming and staffing;

(D) Units shall be managed to ensure access to peer supports;

(E) Participating hospitals shall maintain a stakeholder advisory group with nonexclusionary membership to ensure high quality and appropriate levels of care;

(F) The department shall be solely responsible for responding to requests for records concerning the implementation of this contract between the department and the hospital. The hospital and its employees shall cooperate and provide reasonable assistance to the department in producing records that are within the custody of the hospital that are responsive to records requests and that are not confidential by law.

(G) The state shall retain the option to renew the contract upon expiration of the initial four-year term.

(b)(1) The department of buildings and general services, with broad involvement from the department of mental health and stakeholders, shall design a 16-bed hospital owned and operated by the state in central Vermont and proximate to an existing hospital. The department of buildings and general services shall supervise the construction of the hospital. The operations of the hospital shall be under the jurisdiction of the commissioner of mental health.

(2) To foster coordination between the judiciary and mental health systems, the hospital owned and operated by the state shall contain:

(A) adequate capacity to accept individuals receiving a court order of hospitalization pursuant to 18 V.S.A. chapter 181; and

(B) a private room used and outfitted for the purpose of judicial proceedings.

(3) The commissioner of buildings and general services may purchase, lease for a period of up to 99 years plus any contracted for renewal options, or enter into a lease-purchase agreement for property in central Vermont for the purpose described in this subsection.

(4) The commissioner of buildings and general services shall inform the chairs and vice chairs of the senate committee on institutions and house

committee on corrections and institutions prior to entering into an agreement pursuant to subdivision (3) of this subsection, upon substantial completion of a design pursuant to this section, prior to the commencement of construction, and when any other substantial step is taken in furtherance of this section.

(c)(1) The commissioner is authorized to contract for seven to 12 involuntary acute inpatient beds at Fletcher Allen Health Care until the hospital owned and operated by the state described in subsection (b) of this section is operational, to cover the increased cost of care; and

(2) If a viable setting is identified by the commissioner and licensed by the department of health, the commissioner is authorized to provide acute inpatient services at a temporary location and shall discontinue services at that location when the hospital owned and operated by the state described in subsection (b) of this section is operational, but no later than September 1, 2015. At that time, the temporary facility shall no longer be used for a residential services program. The department shall pursue Medicare and Medicaid certification for any such temporary hospital. The temporary hospital shall be initially licensed for eight acute inpatient beds. Before an expansion of the number of beds at the temporary hospital may occur, the department shall confer with the host community to seek permission for such expansion.

(d) To the extent amounts of potential funding from various sources are not clear upon passage of this act, the legislative intent for funding the capital costs of this section to the extent practicable is first through insurance funds that may be available for these purposes; second through the Federal Emergency Management Agency (FEMA) funds that may be available for these purposes and any required state match; third, in the case of the 14-bed unit and the six-bed unit, through a rate payment with clearly defined terms of services; and last with state capital or general funds. It is also the intent of the general assembly that, notwithstanding 32 V.S.A. §§ 134 and 135, any capital funds expended for projects described in this act that are reimbursed at a later date by insurance or FEMA shall be reallocated to fund capital projects in a future act relating to capital construction and state bonding.

Sec. 10. SECURE RESIDENTIAL RECOVERY PROGRAM

(a) The commissioner of mental health is authorized to establish and oversee a secure five-to 10-bed residential facility owned and operated by the state for individuals no longer requiring acute inpatient care, but who remain in need of treatment within a secure setting for an extended period of time. The program shall be the least restrictive and most integrated setting for each of the individual residents.

(b) The opening of the facility described in subsection (a) of this section is contingent upon the passage of necessary statutory amendments authorizing judicial orders for commitment to such a facility, which shall parallel or be included in 18 V.S.A. § 7620 (related to applications for continuation of involuntary treatment), and shall include the same level of statutory protections for the legal rights of the residents as provided for individuals at inpatient facilities.

* * * Vermont Employees Retirement System * * *

Sec. 11. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this subchapter shall have the following meanings:

* * *

(28) “Successor in interest” means the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 12. 3 V.S.A. § 459(d)(2)A) is amended to read:

(2)(A) Upon early retirement, a group F member, except facility employees of the department of corrections and department of corrections employees who provide direct security and treatment services to offenders under supervision in the community and Woodside facility employees, shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by one-half of one percent for each month the member is under age 62 at the time of early retirement. Group F members who have 20 years of service as facility employees of the department of corrections, as department of corrections employees who provide direct security and treatment services to offenders under supervision in the community or as Woodside facility employees or as Vermont ~~state hospital~~ State Hospital employees, or as employees of its successor in interest, who provide direct patient care shall receive an early retirement allowance which shall be equal to the normal retirement allowance at age 55 without reduction; provided the 20 years of service occurred in one or more of the following capacities as an employee of the department of corrections, Woodside facility~~_, or the Vermont state hospital~~ State Hospital, or its successor in interest: facility employee, community service center employee, or court and reparative service unit employee.

* * * Executive: Human Services * * *

Sec. 13. 3 V.S.A. § 3089 is amended to read:

§ 3089. DEPARTMENT OF MENTAL HEALTH

The department of mental health is created within the agency of human services as the successor to and the continuation of the division of mental health services of the department of health. The department of mental health shall be responsible for the operation of the Vermont ~~state hospital~~ State Hospital, or its successor in interest as defined in subdivision 455(28) of this title.

* * * Crimes and Criminal Procedure: Escape * * *

Sec. 14. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

* * *

(b) A person who, while in lawful custody:

* * *

(4) escapes or attempts to escape from the Vermont ~~state hospital~~ State Hospital, or its successor in interest or a participating hospital, when confined by court order pursuant to chapter 157 of Title 13 or chapter 199 of Title 18 this title, or when transferred there pursuant to ~~section 28 V.S.A. § 703 of Title 28~~ and while still serving a sentence, shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.

* * *

(d) As used in this section:

(1) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(2) “Participating hospital” means a hospital under contract with the department of mental health to participate in the no refusal system.

(3) “Successor in interest” shall mean the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

* * * Crimes and Criminal Procedure: Insanity as a Defense * * *

Sec. 15. 13 V.S.A. § 4815 is amended to read:

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

(b) The order for examination may provide for an examination at any jail or correctional center, or at the state hospital, or at its successor in interest, or at such other place as the court shall determine, after hearing a recommendation by the commissioner of mental health.

* * *

(g)(1) Inpatient examination at the ~~state hospital~~ Vermont State Hospital, or its successor in interest, or a designated hospital. The court shall not order an inpatient examination unless the designated mental health professional determines that the defendant is a person in need of treatment as defined in 18 V.S.A. § 7101(17).

* * *

(3) An order for inpatient examination shall provide for placement of the defendant in the custody and care of the commissioner of mental health.

(A) If a Vermont ~~state hospital~~ State Hospital psychiatrist, or a psychiatrist of its successor in interest, or a designated hospital psychiatrist determines that the defendant is not in need of inpatient hospitalization prior to admission, the commissioner shall release the defendant pursuant to the terms governing the defendant's release from the commissioner's custody as ordered by the court. The commissioner of mental health shall ensure that all individuals who are determined not to be in need of inpatient hospitalization receive appropriate referrals for outpatient mental health services.

(B) If a Vermont ~~state hospital~~ State Hospital psychiatrist, or a psychiatrist of its successor in interest, or designated hospital psychiatrist determines that the defendant is in need of inpatient hospitalization:

(i) The commissioner shall obtain an appropriate inpatient placement for the defendant at the Vermont ~~state hospital~~ State Hospital, or its successor in interest, or a designated hospital and, based on the defendant's clinical needs, may transfer the defendant between hospitals at any time while the order is in effect. A transfer to a designated hospital outside the no refusal system is subject to acceptance of the patient for admission by that hospital.

(ii) The defendant shall be returned to court for further appearance on the following business day if the defendant is no longer in need of inpatient hospitalization, unless the terms established by the court pursuant to

subdivision (2) of this section permit the defendant to be released from custody.

* * *

(i) As used in this section:

(1) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(2) “Successor in interest” shall mean the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 15a. 13 V.S.A. § 4822(c) is amended to read:

(c) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section the commissioner of ~~developmental and mental health services~~ shall give notice thereof to the committing court and state’s attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the commissioner of ~~developmental and mental health services~~, a hearing should be held prior to the discharge, the hearing shall be held in the ~~criminal~~ family division of the superior court, ~~Waterbury circuit~~ to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the commissioner, the state’s attorney of the county where the prosecution originated, the committed person and the person’s attorney. Prior to the hearing, the state’s attorney may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

* * * Elections * * *

Sec. 16. 17 V.S.A. § 2103 is amended to read:

§ 2103. DEFINITIONS

As used in this title, unless the context or a specific definition requires a different reading:

* * *

(38) “State institution” means the Vermont State Hospital, or its successor in interest, correctional facilities, and other similar public institutions, established or funded, or both, by public funds within the state of Vermont, not including educational institutions.

* * *

(43) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(44) “Participating hospital” means a hospital under contract with the department of mental health to participate in the no refusal system.

(45) “Successor in interest” means the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

* * * General Provisions (pertaining to Mental Health) * * *

Sec. 17. 18 V.S.A. § 7101 is amended to read:

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

* * *

(26) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(27) “Participating hospital” means a hospital under contract with the department of mental health to participate in the no refusal system.

(28) “Successor in interest” means the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 18. 18 V.S.A. § 7108 is amended to read:

§ 7108. CANTEENS

The ~~superintendents~~ chief executive officer of the Vermont State Hospital ~~and the Training School, or its successor in interest,~~ may conduct a canteen or commissary, which shall be accessible to patients, ~~students,~~ employees, and visitors of the ~~state hospital and training school~~ Vermont State Hospital, or its successor in interest, at designated hours and shall be operated by employees of the hospital ~~and the school.~~ A revolving fund for this purpose is authorized. The salary of an employee of the hospital ~~or training school~~ shall be charged against the canteen fund. Proceeds from sales may be used for operation of the canteen and the benefit of the patients, ~~students~~ and employees of the hospital ~~or training school~~ under the direction of the ~~superintendents~~ chief executive officer and subject to the approval of the commissioner. All balances of such funds remaining at the end of any fiscal year shall remain in such fund for use during the succeeding fiscal year. An annual report of the status of the funds shall be submitted to the commissioner.

Sec. 19. 18 V.S.A. § 7110 is amended to read:

§ 7110. CERTIFICATION OF MENTAL ILLNESS

A certification of mental illness by a licensed physician required by section 7504 of this title shall be made by a board eligible psychiatrist, a board certified psychiatrist or a resident in psychiatry, under penalty of perjury. In areas of the state where board eligible psychiatrists, board certified psychiatrists or residents in psychiatry are not available to complete admission certifications to the Vermont ~~state hospital~~ State Hospital, or its successor in interest, the commissioner may designate other licensed physicians as appropriate to complete certification for purposes of section 7504 of this title.

* * * The Department of Mental Health * * *

Sec. 20. 18 V.S.A. § 7205 is amended to read:

§ 7205. SUPERVISION OF INSTITUTIONS

(a) The department of mental health shall operate the Vermont State Hospital, or its successor in interest, and shall be responsible for patients receiving involuntary treatment ~~at a hospital designated by the department of mental health.~~

(b) The commissioner of the department of mental health, in consultation with the secretary, shall appoint a chief executive officer of the Vermont State Hospital, or its successor in interest, to oversee the operations of the hospital. The chief executive officer position shall be an exempt position.

Sec. 21. DELETED

Sec. 22. DELETED

* * * The Commissioner of Mental Health * * *

Sec. 23. 18 V.S.A. § 7401 is amended to read:

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the commissioner shall be charged with its administration. The commissioner may:

* * *

(5) supervise the care and treatment of ~~patients at the Retreat in the same manner and with the same authority that he supervises patients at the Vermont State Hospital~~ individuals within his or her custody;

* * *

(16) contract with accredited educational or health care institutions for psychiatric services at the Vermont State Hospital, or its successor in interest;

* * *

* * * Admission Procedures * * *

Sec. 24. 18 V.S.A. § 7511 is amended to read:

§ 7511. TRANSPORTATION

(a) The commissioner shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any inpatient setting, including escorts within a designated hospital or the Vermont ~~state hospital~~ State Hospital, or its successor in interest, or otherwise being transported under the jurisdiction of the commissioner in any manner which:

(1) prevents physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the patient.

(b) The commissioner shall have the authority to designate the professionals or law enforcement officers who may authorize the method of transport of patients under the commissioner's care and custody.

(c) When a professional or law enforcement officer designated pursuant to subsection (b) of this section decides an individual is in need of secure

transport with mechanical restraints, the reasons for such determination shall be documented in writing.

* * *

Sec. 25. 18 V.S.A. § 7703 is amended to read:

§ 7703. TREATMENT

(a) Outpatient or partial hospitalization shall be preferred to inpatient treatment. Emergency involuntary treatment shall be undertaken only when clearly necessary. Involuntary treatment shall be utilized only if voluntary treatment is not possible.

(b) The department shall establish minimum standards for adequate treatment as provided in this section, including requirements that, when possible, psychiatric unit staff be used as the primary source to implement emergency involuntary procedures such as seclusion and restraint.

* * * Transfer of Patients * * *

Sec. 26. 18 V.S.A. § 7901 is amended to read:

§ 7901. INTRASTATE TRANSFERS

The commissioner may authorize the transfer of patients between the Vermont ~~state hospital~~ State Hospital, or its successor in interest, and designated hospitals if the commissioner determines that it would be consistent with the medical needs of the patient to do so. Whenever a patient is transferred, written notice shall be given to the patient's ~~attorney~~, legal guardian or agent, if any, ~~spouse, parent, or parents, or, if none be known, to any other interested party in that order,~~ and any other person with the consent of the patient. In all such transfers, due consideration shall be given to the relationship of the patient to his or her family, legal guardian, or friends, so as to maintain relationships and encourage visits beneficial to the patient. Due consideration shall also be given to the separation of functions and to the divergent purposes of the Vermont ~~state hospital~~ State Hospital, or its successor in interest, and designated hospitals. No patient may be transferred to a correctional institution without the order of a court of competent jurisdiction. No patient may be transferred to a designated hospital outside the no refusal system unless the head of the hospital or his or her designee first accepts the patient.

* * * Support and Expense * * *

Sec. 27. 18 V.S.A. § 8101(b) is amended to read:

(b) The commissioner shall promulgate, pursuant to 3 V.S.A. chapter 25 of ~~Title 3~~, regulations which set forth in detail the levels of income, resources,

expenses, and family size at which persons are deemed able to pay given amounts for the care and treatment of a patient, and the circumstances, if any, under which the rates of payment so established may be waived or modified. A copy of the payment schedule so promulgated shall be made available in the admissions office ~~and in the office of each supervisor at the state hospital~~ Vermont State Hospital, or its successor in interest.

Sec. 28. 18 V.S.A. § 8105 is amended to read:

§ 8105. COMPUTATION OF CHARGE FOR CARE AND TREATMENT

The charge for the care and treatment of a patient at the Vermont ~~state hospital~~ State Hospital, or its successor in interest, shall be established at least annually by the commissioner. The charge shall reflect the current cost of the care and treatment, including depreciation and overhead, for the Vermont ~~state hospital~~ State Hospital, or its successor in interest. Depreciation shall include but not be limited to costs for the use of the plant and permanent improvements, and overhead shall include but not be limited to costs incurred by other departments and agencies for the operation of the hospital. Accounting principles and practices generally accepted for hospitals shall be followed by the commissioner in establishing the charges.

Sec. 29. 18 V.S.A. § 8010 is amended to read:

§ 8010. VOLUNTARY PATIENTS; DISCHARGE; DETENTION

~~(a) If a voluntary patient gives notice in writing to the head of the hospital of a desire to leave the hospital, he or she shall promptly be released unless he or she agreed in writing at the time of his admission that his or her release could be delayed.~~

~~(b) In that event and if the head of the hospital determines that the patient is a patient in need of further treatment, the head of the hospital may detain the patient for a period not to exceed four days from receipt of the notice to leave. Before expiration of the four day period the head of the hospital shall either release the patient or apply to the family division of the superior court in the unit in which the hospital is located for the involuntary admission of the patient. The patient shall remain in the hospital pending the court's determination of the case.~~

~~(c) If the patient is under 18 years of age, the notice to leave may be given by the patient or his or her attorney or the person who applied for admission, provided the minor consents thereto. [Repealed.]~~

* * * Municipal and County Government * * *

Sec. 29a. 24 V.S.A. § 296 is amended to read:

§ 296. TRANSPORTATION OF PRISONERS ~~AND MENTAL PATIENTS~~

All commitments to a state correctional facility ~~or state mental institution~~ or to any other place named by the commissioner of corrections, ~~commissioner of mental health~~ or committing court, shall be made by any sheriff, deputy sheriff, state police officer, police officer, or constable in the state, or the commissioner of corrections or his or her authorized agent.

* * * Professions and Occupations: Nursing * * *

Sec. 30. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXCEPTIONS

This chapter does not prohibit:

* * *

(6) ~~The work and duties of psychiatric technicians and other care attendants employed in the Vermont state hospital at Waterbury. The agency of human services shall consult with the board regarding standards for the education of the technicians and care attendants.~~

(7) The work and duties of attendants in attendant care services programs.

(8) The practice of any other occupation or profession licensed under the laws of this state.

(9) The providing of care for the sick in accordance with the tenets of any church or religious denomination by its adherents if the individual does not hold himself or herself out to be a registered nurse, licensed practical nurse, or licensed nursing assistant and does not engage in the practice of nursing as defined in this chapter.

* * * Public Institutions and Corrections: Juveniles * * *

Sec. 31. 28 V.S.A. § 1105 is amended to read:

§ 1105. TRANSFER OF JUVENILES TO STATE HOSPITAL

~~The transfer of any child committed to the custody of the commissioner from a facility of or supported by the department to the state hospital shall be conducted pursuant to the same procedures established for the transfer of adult inmates by sections 703-706 of this title. [Repealed.]~~

* * * Regulation of Long-Term Care Facilities * * *

Sec. 32. 33 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

For the purposes of this chapter:

* * *

(11) “Therapeutic community residence” means a place, however named, excluding ~~a hospital~~ hospitals as defined by statute ~~or the Vermont state hospital~~ which provides, for profit or otherwise, short-term individualized treatment to three or more residents with major life adjustment problems, such as alcoholism, drug abuse, mental illness, or delinquency.

* * *

Sec. 33. REPORTS

(a) On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committees on human services and on judiciary on issues and protections relating to decentralizing high intensity inpatient mental health care. The commissioner of mental health shall:

(1) Recommend whether any statutory changes are needed to preserve the rights afforded to patients in the Vermont State Hospital. In so doing, the commissioner shall consider 18 V.S.A. §§ 7705 and 7707, the Vermont Hospital Patient Bill of Rights as provided in 18 V.S.A. § 1852, the settlement order in Doe, et al. v. Miller, et al., docket number S-142-82-Wnc dated May 1984, and other state and federal regulatory and accreditation requirements related to patient rights.

(2) Work with designated hospitals and stakeholders to develop a process to ensure public involvement with policy development relevant to individuals in the care and custody of the commissioner.

(3) Develop consistent definitions and measurement specifications for measures relating to seclusion and restraint and other key indicators, in collaboration with the designated hospitals. The commissioner shall prioritize the use of measures developed by national organizations such as the Joint Commission and the Centers for Medicare and Medicaid Services.

(4) Report on the efficacy of the department of mental health’s housing subsidies program on the status of stable housing.

(b) On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committee on human services regarding the department’s efforts to date to plan for

implementation, quality improvement, and innovation of Vermont's mental health system and how the department recommends that it proceed in its efforts to improve the system. The recommendation shall be based on:

(1) the department's use of current financial data to conduct a fiscal analysis of the capital and annual operating costs associated with the plan as enacted; and

(2) the department's ongoing collection of data on the state's mental health system, including:

(A) the average monthly bed census and average length of stay at inpatient psychiatric hospitals, intensive residential recovery facilities, and crisis beds;

(B)(i) the number of declined referrals to inpatient psychiatric hospitals due to lack of capacity; and

(ii) the number of declined referrals to inpatient psychiatric hospitals due to patient or unit acuity;

(C) the average wait time for admission to an intensive residential recovery facility;

(D) the number of individuals with mental health conditions utilizing noncategorical case management services, mobile support services, peer services, and housing subsidies, and if applicable, the average wait for each service;

(E) the number of emergency room screenings for psychiatric care, disposition of the screenings, and duration of emergency room visits;

(F) the number and disposition of court-ordered inpatient evaluations; and

(G) individuals' satisfaction with provided services.

(c) Prior to submitting the reports required by subsections (a) and (b) of this section, the department of mental health shall solicit comments from the department's patient representative described in 18 V.S.A. § 7253, Vermont Legal Aid, and Disability Rights Vermont, and shall append any comments received to the respective report.

(d) On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committee on human services with a plan for streamlining overlapping state and federal reporting requirements for providers in the mental health system, including recommendations for any statutory changes needed to do so.

Sec. 33a. RULEMAKING

On or before September 1, 2012, the commissioner of mental health shall initiate a rulemaking process that establishes standards that meet or exceed and are consistent with standards set by the Centers for Medicare and Medicaid Services and the Joint Commission for the use and reporting of involuntary emergency procedures on individuals within the custody of the commissioner, such as seclusion and restraint, and that require the personnel performing involuntary emergency procedures to receive training and certification on the use of these procedures. Standards established by rule shall be consistent with the recommendations made pursuant to Sec. 33(a)(3) of this act.

Sec. 33b. COST-BASED REIMBURSEMENT FOR ACUTE HOSPITAL SERVICES

(a) The department of mental health shall ensure that a comprehensive fiscal review to determine reimbursable hospital costs is conducted by qualified professionals for cost reimbursement above established rates for inpatient psychiatric care. The department may contract with the division of rate setting or a third party to conduct this review.

(b) The department of mental health shall report to the joint fiscal committee regarding the fiscal review described in subsection (a) of this section on or before September 1, 2012.

Sec. 34. TRANSFER OF APPROPRIATIONS

To continue the training program established in Sec. 13 of No. 80 of the Acts of the 2003 Adj. Sess. (2004) (amending Sec. 57 of No. 66 of the Acts of 2003), for assisting selected law enforcement officers during the performance of their duties in their interactions with persons exhibiting mental health conditions, \$20,000.00 of the general funds appropriated to the department of mental health for fiscal year 2012 shall be transferred to the office of the attorney general.

(1) The office of the attorney general, in consultation with the Vermont coalition for disability rights and other organizations, shall implement this training program.

(2) By January 15 of each year and until funds are fully expended, the attorney general shall submit to the secretary of administration and the house and senate committees on appropriations a report summarizing how the funds have been used and how the trainings have progressed.

(3) Unexpended funds shall be carried forward and used for the purpose of this section in future years.

Sec. 34a. Sec. 33 of No. 43 of the Acts of 2009 (amending Sec. 124d(e) of No. 65 of the Acts of 2007) is amended to read:

(e) For purposes of this section, the council shall cease to exist when the development of the alternatives to the Vermont state hospital is completed, but no later than July 1, ~~2012~~ 2014.

* * * Fiscal Year 2012 Appropriations * * *

Sec. 35. Sec. B.301 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec. 14 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.301 Secretary's office - global commitment

Grants	~~1,080,785,264~~	1,107,604,567
Total	~~1,080,785,264~~	1,107,604,567
Source of funds		
General fund	~~139,267,121~~	135,947,833
Special funds	~~18,630,961~~	19,052,361
Tobacco fund	36,978,473	36,978,473
State health care resources fund	~~221,579,040~~	234,205,524
Catamount fund	~~23,948,700~~	25,226,979
Federal funds	~~639,692,834~~	655,505,262
Interdepartmental transfers	~~688,135~~	688,135
Total	~~1,080,785,264~~	1,107,604,567

Sec. 36. Sec. B.314 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec.24 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.314 Mental health - mental health

Personal services	~~5,486,339~~	5,482,633
Operating expenses	~~1,117,984~~	1,040,984
Grants	~~124,369,250~~	139,483,645
Total	~~130,973,573~~	146,007,262
Source of funds		
General fund	~~811,295~~	961,295
Special funds	~~6,836~~	6,836
Federal funds	~~6,555,971~~	6,552,154
Global Commitment fund	~~123,579,471~~	138,466,977
Interdepartmental transfers	~~20,000~~	20,000
Total	~~130,973,573~~	146,007,262

Sec. 37. Sec. B.315 of No. 63 of the Acts of 2011 (FY 12 Big Bill), as amended by Sec.25 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.315 Mental health – Vermont state hospital

Personal services	20,479,188	20,228,969
Operating expenses	2,056,312	1,394,734
Grants	82,335	82,335
Total	22,617,835	21,706,038
Source of funds		
General fund	17,016,067	5,963,977
~~Special funds~~	835,486	0
Federal funds	213,564	93,117
Global Commitment fund	4,252,718	15,648,944
~~Interdepartmental transfers~~	300,000	0
Total	22,617,835	21,706,038

Sec. 37a. REDUCTION IN FORCE OF VERMONT STATE HOSPITAL
EMPLOYEES

(a) Permanent status classified employees who were officially subjected to a reduction in force from their positions with the Vermont State Hospital on or after February 6, 2012, whose reemployment rights have not otherwise terminated and who have not been reemployed with the state during the two-year reduction in force reemployment rights period, shall be granted a continuation of their reduction in force reemployment rights, in accordance with the provisions of the applicable collective bargaining agreement, but solely to vacant classified bargaining unit positions at any new state-owned and -operated psychiatric hospital which management intends to fill. All other contractual reduction in force reemployment terms and conditions shall apply.

(b) Permanent status classified employees employed by the Vermont State Hospital as of February 6, 2012 who are employed by the state shall, in accordance with the provisions of the applicable collective bargaining agreement, be eligible to receive one mandatory offer of reemployment to any new state-owned and -operated psychiatric hospital, solely to the job classification that they last occupied at the Vermont State Hospital, provided management intends to fill positions within that job classification. An employee who accepts such mandatory offer of reemployment shall be appointed in accordance with the provisions of the applicable collective bargaining agreement. If an employee who accepts a mandatory offer of reemployment fails the associated working test period, he or she shall be separated from employment and granted full reduction in force reemployment rights in accordance with the applicable collective bargaining agreement.

(c) Subsections (a) and (b) of this section are repealed one year after the opening of any new state-owned and -operated psychiatric hospital.

(d)(1) Participating hospitals and designated agencies developing acute inpatient, secure residential, and intensive residential recovery services, as

described in Secs. 8–10 of this act, shall provide the department of human resources with a description of the minimum qualifications for those open positions related to the care of individuals with mental health conditions. Participating hospitals and designated agencies shall be encouraged to hire former state employees who meet minimum requirements or have equivalent experience. The department shall use the most effective method to notify former employees of the Vermont State Hospital of these positions.

(2) The general assembly encourages the administration through its contracting process with participating hospitals and designated agencies to provide former employees of the Vermont State Hospital with the opportunity to apply for available positions.

(3) The provisions of this subsection shall not affect any existing collective bargaining agreement.

Sec. 37b. LEGISLATIVE INTENT

(a) It is the intent of the general assembly that the department of mental health contract with the Brattleboro Retreat for a 14-bed unit and with Rutland Regional Medical Center for a six-bed facility pursuant to Sec. 9(a) of this act.

(b) It is the understanding of the general assembly that the proposal in Sec. 9(c)(2) of this act, the Brattleboro Retreat, Rutland Regional Medical Center, and an interim secure residential facility are to temporarily meet the immediate needs of the state.

Sec. 38. EFFECTIVE DATES

This act shall take effect on passage, except for Sec. 34 which shall take effect on July 1, 2012.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Pugh of South Burlington** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Pugh of South Burlington

Rep. Haas of Rochester

Rep. Emmons of Springfield

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Remarks Journalized

On motion of **Rep. Stevens of Waterbury**, the following remarks by **Rep. Atkins of Winooski** were ordered printed in the Journal:

“Mr. Speaker:

I would like to speak this morning regarding constituent safety. There is a bill, House bill 580, that deals with the safe usage and storage of firearms.

This bill has been on the wall of a legislative committee for a long time. If it's such a great bill, why is it still on the wall?

Fear keeps it there.

The Gun advocacy groups and sportsman groups fear this bill may infringe on second amendment rights.

As a serious participant in shooting sports, I too should be fearful.

Recent events have ratcheted up those fears in everyone's minds.

One of my students, a 33 year old young man died tragically this week.

Other similar events in other parts of the country have shocked us all recently.

It appears to me that there is a need to shine a bright light on a variety of subjects regarding gun safety and the safe storage of firearms.

H 580 would provide information about safe gun practices and storage and a list of approved gun safety devices. This information would be distributed to the following people and agencies to be discussed and given to Vermonters.

The following people would be contact people who pass out the information.

Gun dealers and gun sellers.

Pediatricians. (Well child visits.)

Mental health providers.

School health educators.

Hunter safety instructors.

Mentors. Etc.

It is my hope that an amended bill with only the notifications of safety information would be allowed to be brought forward and given a complete vetting. The penalty portion of the bill is not, at least in my mind, as important as getting the word out that we need to keep our guns safe and by doing that, Vermonters would be safer.

Remarks Journalized

On motion of **Rep. Andrews of Rutland City**, the following remarks by **Rep. Clark of Vergennes** were ordered printed in the Journal:

“Mr. Speaker:

As we head out for town meeting break, though I realize some of us have more meetings to attend than others, I hope we remember that the value of this time honored tradition, nearly unique to Vermont, is not in the money we spend or the money we don’t spend on specific problems, but on the value of the spirit of our Vermont citizens. I hope that we can share with them, whether we meet them at town meeting or in another public arena, how much we value and appreciate their Spirit of Independence and their participation in our representative democracy. I hope too that we remind them how important it is for all of us to communicate with each other.

Message from the Senate No. 24

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 128. An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe.

S. 129. An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe.

S. 189. An act relating to expanding confidentiality of cases accepted by the court diversion project.

S. 197. An act relating to hospital-based outpatient fees.

S. 199. An act relating to immunization exemptions and the immunization pilot program.

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

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

H. 630. An act relating to reforming Vermont’s mental health system.

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Ayer
Senator Hartwell
Senator Mullin

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 40. Senate concurrent resolution congratulating Ross Connelly and Thomas F. Kearney on their induction into the New England Newspaper Hall of Fame.

The Senate has on its part adopted concurrent resolution originating in the House of the following title:

H.C.R. 278. House concurrent resolution commemorating the 30th anniversary of the Vietnam Veterans Memorial, "The Wall," in Washington, D.C. and all Vietnam War Veterans.

H.C.R. 279. House concurrent resolution commemorating the 30th anniversary of the Vermont Vietnam Veterans Memorial and all Vietnam War Veterans.

H.C.R. 280. House concurrent resolution commemorating the 250th anniversary of the town of Bristol.

H.C.R. 281. House concurrent resolution honoring radio station WBTN-AM in Bennington for its public service broadcasting during Tropical Storm Irene.

H.C.R. 282. House concurrent resolution expressing solidarity with the people of Japan on the first anniversary of the 2011 triple disaster.

H.C.R. 283. House concurrent resolution in memory of former Representative Harvey B. Otterman Jr. of Topsham.

H.C.R. 284. House concurrent resolution honoring Orange clerk-treasurer Rita Bisson for her outstanding 33 years of public service.

H.C.R. 285. House concurrent resolution commemorating the 250th anniversary of the incorporation of the Essex County towns of Averill, Bloomfield, Lemington, and Lewis.

H.C.R. 286. House concurrent resolution honoring Big Heavy World and its volunteer staff for its significant 15-year contribution to music and the creative economy in Vermont.

H.C.R. 287. House concurrent resolution commemorating the 250th charter anniversary of the town of Shaftsbury.

H.C.R. 288. House concurrent resolution commemorating the 250th anniversary of the town of Charlotte.

H.C.R. 289. House concurrent resolution commemorating the 250th anniversary of the town of Ferrisburgh.

H.C.R. 290. House concurrent resolution commemorating the 250th anniversary of the chartering of the town of Monkton.

H.C.R. 291. House concurrent resolution honoring Addison town clerk Jane Grace for her exemplary 40 years of public service.

Adjournment

At ten o'clock and fifteen minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, March 13, 2012, at ten o'clock in the forenoon, pursuant to the provisions of JRS 5.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 278

House concurrent resolution commemorating the 30th anniversary of the Vietnam Veterans Memorial, "The Wall," in Washington, D.C. and all Vietnam War Veterans;

H.C.R. 279

House concurrent resolution commemorating the 30th anniversary of the Vermont Vietnam Veterans Memorial and all Vietnam War Veterans;

H.C.R. 280

House concurrent resolution commemorating the 250th anniversary of the town of Bristol;

H.C.R. 281

House concurrent resolution honoring radio station WBTN-AM in Bennington for its public service broadcasting during Tropical Storm Irene;

H.C.R. 282

House concurrent resolution expressing solidarity with the people of Japan on the first anniversary of the 2011 triple disaster;

H.C.R. 283

House concurrent resolution in memory of former Representative Harvey B. Otterman Jr. of Topsham;

H.C.R. 284

House concurrent resolution honoring Orange clerk-treasurer Rita Bisson for her outstanding 33 years of public service;

H.C.R. 285

House concurrent resolution commemorating the 250th anniversary of the incorporation of the Essex County towns of Averill, Bloomfield, Lemington, and Lewis;

H.C.R. 286

House concurrent resolution honoring Big Heavy World and its volunteer staff for its significant 15-year contribution to music and the creative economy in Vermont;

H.C.R. 287

House concurrent resolution commemorating the 250th charter anniversary of the town of Shaftsbury;

H.C.R. 288

House concurrent resolution commemorating the 250th anniversary of the town of Charlotte;

H.C.R. 289

House concurrent resolution commemorating the 250th anniversary of the town of Ferrisburgh;

H.C.R. 290

House concurrent resolution commemorating the 250th anniversary of the chartering of the town of Monkton;

H.C.R. 291

House concurrent resolution honoring Addison town clerk Jane Grace for her exemplary 40 years of public service;

S.C.R. 38

Senate concurrent resolution honoring the six fire chiefs past and present who have given over 280 years of combined service to the Marshfield Volunteer Fire Department;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, March 13, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Rebecca Clark of Trinity United Methodist Church, Montpelier, VT.

Pledge of Allegiance

Page Audrey Oliver of Montpelier led the House in the Pledge of Allegiance.

Committee Bill Introduced**H. 766**

Rep. Head of South Burlington, for the committee on General, Housing and Military Affairs, introduced a bill, entitled

An act relating to the national guard

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 128

Senate bill, entitled

An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe;

To the committee on General, Housing and Military Affairs.

S. 129

Senate bill, entitled

An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe;

To the committee on General, Housing and Military Affairs.

S. 189

Senate bill, entitled

An act relating to expanding confidentiality of cases accepted by the court diversion project;

To the committee on Judiciary.

S. 197

Senate bill, entitled

An act relating to hospital-based outpatient fees;

To the committee on Health Care.

S. 199

Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program;

To the committee on Human Services.

Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Calendar, affecting the revenue of the state, under the rule, were referred to the Committee on Ways and Means:

H. 506

House bill, entitled

An act relating to vinous beverages

H. 762

House bill, entitled

An act relating to workers' compensation and unemployment compensation

Rules Suspended; Bill Committed**H. 745**

On motion of **Rep. Pugh of South Burlington**, the rules were suspended and House bill, entitled

An act relating to the Vermont prescription monitoring system

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending the reading of the report of the committee on Human Services, on motion of **Rep. Pugh of South Burlington**, the bill was committed to the committee on Judiciary.

Bill Referred to Committee on Appropriations**H. 535**

House bill, entitled

An act relating to racial disparities in the Vermont criminal justice system

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

S. 199

Rep. Pugh of South Burlington moved that the committee on Human Services be relieved of Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program

And that the bill be committed to the committee on Health Care, which was agreed to.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 700

Rep. Partridge of Windham moved that the committee on Agriculture be relieved of House bill, entitled

An act relating to curbing the spread of invasive plant species

And that the bill be committed to the committee on Transportation, which was agreed to.

Bill Amended; Third Reading Ordered

H. 469

Rep. Krebs of South Hero, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to potable water supply and wastewater system isolation distances

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1973 is amended to read:

§ 1973. PERMITS

* * *

(j)(1) When an applicant for a permit under this section proposes a water supply or wastewater system with isolation distances that extend onto property other than the property for which the permit is sought, the permit applicant shall send ~~a copy of the complete permit application~~ by mail, on a form

provided by the secretary, a notice of an intent to file a permit application, including ~~any plans~~ the site plan that accurately depicts all isolation distances, to any landowner affected by the proposed isolation distances ~~no later than~~ at least seven calendar days prior to the date that the permit application is submitted to the secretary.

(2) If, during the course of the secretary's review of an application for a permit under this section, the location of a water supply or wastewater system permit is revised and the isolation distances of the revised system extend onto property other than the property for which the permit is sought, the permit applicant shall ~~provide~~ send by mail a copy of any revised plan to any landowner affected by the isolation distances.

(3) If, after a permit has been issued under this section, a water supply or wastewater system is not installed according to the permitted plan and the record drawings submitted under subsection (e) of this section indicate that the isolation distances of the ~~as-built~~ system as constructed extend onto property other than the property on which the ~~as-built~~ system is located, the permittee shall ~~provide~~ send by mail a notification form provided by the secretary with a copy of the record drawings showing all isolation distances to any landowner affected by the isolation distances.

(4) A permit applicant or permittee subject to the requirements of subdivisions (1) through (3) of this subsection shall certify to the secretary that the ~~notice~~ notices and information required by this subsection have been sent to affected landowners and shall include in the certification the name and address of all affected landowners. If the secretary approves a permit application under this section, the permit shall not be issued to a permit applicant subject to the requirements of ~~subdivisions~~ subdivision (1) and (2) of this subsection until seven calendar days after the permit applicant certifies to the secretary that the notice required under this subsection has been sent to affected landowners.

Sec. 2. EFFECTIVE DATE

This act shall take effect 60 days after passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Fish, Wildlife & Water Resources agreed to and third reading ordered.

Joint Resolutions Adopted

Joint resolutions of the following titles were severally taken up and adopted on the part of the House;

J.R.H. 28

Joint Resolution, entitled

Joint resolution congratulating the Republic of China (Taiwan), President Ma Ying-jeou, and the 23 million Taiwanese people on their successful 2012 democratic elections and urging support for Taiwan's participation in various international organizations;

J.R.H. 29

Joint Resolution, entitled

Joint resolution commemorating Women's History Month, the publication of the sixth edition of *The Legal Rights of Women in Vermont*, and reaffirming continuing support for equal rights for women.

Message from the Senate No. 25

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 49. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the seventh day of March, 2012, he approved and signed bills originating in the House of the following titles:

H. 558 An act relating to fiscal year 2012 budget adjustment

H. 755 An act relating to extending the deadline for adoption of certain health department rules.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the eighth day of March, 2012, he approved and signed a bill originating in the House of the following title:

H. 365 An act relating to designating skiing and snowboarding as the official winter state sports

Adjournment

At ten o'clock and thirty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, March 14, 2012

Rep. Leriche of Hardwick in Chair.

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

House Bill Introduced

H. 767

By Reps. Buxton of Tunbridge, Campion of Bennington, Christie of Hartford, Clarkson of Woodstock, Crawford of Burke, Donovan of Burlington, Gilbert of Fairfax, Lorber of Burlington, Pearson of Burlington, Peltz of Woodbury, Ram of Burlington, Sweaney of Windsor, Trieber of Rockingham and Young of Glover,

House bill, entitled

An act relating to student loan forgiveness;

To the committee on Education.

Bill Referred to Committee on Appropriations

H. 766

House bill, entitled

An act relating to the national guard

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Adopted**J.R.S. 49**

By Senators Carris and Mullin,

J.R.S. 49. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, March 15, 2012, or, Friday, March 16, 2012, it be to meet again no later than Tuesday, March 20, 2012.

Was taken up and adopted on the part of the House.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 588

Rep. Sweaney of Windsor moved that the committee on Government Operations be relieved of House bill, entitled

An act relating to prorating the cost of property tax appeals

And that the bill be committed to the committee on Ways and Means, which was agreed to.

Bill Read Second Time; Third Reading Ordered**H. 765**

Rep. Lenes of Shelburne spoke for the committee on Corrections and Institutions.

House bill entitled

An act relating to the mental health needs of the corrections population

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Third Reading; Bill Passed**H. 469**

House bill, entitled

An act relating to potable water supply and wastewater system isolation distances

Was taken up, read the third time and passed.

Bill Read Second Time; Third Reading Ordered**H. 764**

Rep. Copeland-Hanzas of Bradford spoke for the committee on Health Care.

House bill entitled

An act relating to health insurance brokers' fees

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Andrews of Rutland City** moved to amend the bill as follows:

First: By inserting a new Sec. 3 to read as follows:

Sec. 3. 8 V.S.A. § 4085b is added to read:

§ 4085b. FIDUCIARY DUTY

A health insurance broker shall owe a fiduciary duty to all policyholders and prospective policyholders with whom the broker has a relationship and shall have a duty to act in the best interests of such policyholders and prospective policyholders. In addition, each broker shall disclose to all policyholders and prospective policyholders with whom the broker has a relationship any financial, contractual, or other remunerative arrangement that the broker has with any health insurer offering health insurance policies in this state.

and by renumbering the remaining sections to be numerically correct

Second: By striking out subsection (b) of renumbered Sec. 5 in its entirety and inserting in lieu thereof the following:

(b) Secs. 2, 3, and 4 of this act and this section shall take effect on July 1, 2012.

Thereupon, **Rep. Andrews of Rutland City** asked and was granted leave of the House to withdraw her amendment and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered**H. 37**

Rep. Eckhardt of Chittenden, for the committee on Health Care, to which had been referred House bill, entitled

An act relating to telemedicine

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. chapter 107, subchapter 14 is added to read:

Subchapter 14. Telemedicine

§ 4100k. COVERAGE FOR TELEMEDICINE SERVICES

(a) All health insurance plans in this state shall provide coverage for telemedicine services delivered to a patient in a health care facility to the same extent that the services would be covered if they were provided through in-person consultation.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network and may require health care providers to document the reason the services are being provided by telemedicine rather than in person.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's policy.

(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the remote health care provider to document the reason the services are being provided by store and forward means rather than in person or by telemedicine.

(f) Nothing in this section shall be construed to require a health insurance plan to provide coverage for telemedicine or store and forward services provided with equipment of insufficient quality to meet the procedural code being billed.

(g) As used in this subchapter:

(1) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid, the Vermont health access plan, and any other public health care assistance program offered or administered by the state or by any subdivision or instrumentality of the state. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

(2) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.

(3) “Store and forward” means an asynchronous transmission of medical information to be reviewed at a later date by a physician at a remote site who is trained in the relevant specialty and by which the physician at the remote site reviews the medical information without the patient present in real time.

(4) “Telemedicine” means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

Sec. 2. 18 V.S.A. chapter 219 is redesignated to read:

CHAPTER 219. HEALTH INFORMATION TECHNOLOGY
AND TELEMEDICINE

Sec. 3. STATUTORY REVISION

18 V.S.A. §§ 9351–9352 shall be recodified as subchapter 1 (Health Information Technology) of chapter 219.

Sec. 4. 18 V.S.A. chapter 219, subchapter 2 is added to read:

Subchapter 2. Telemedicine

§ 9371. PRACTITIONERS PROVIDING TELEMEDICINE OR STORE AND
FORWARD SERVICES

(a) Subject to the limitations of the license under which the individual is practicing, a health care practitioner licensed in this state may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient either in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings. For purposes of this subchapter, “telemedicine” shall have the same meaning as in 8 V.S.A. § 4100k.

(b) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive interactive communication with the remote specialist physician and shall receive interactive communication with the remote specialist physician upon request. If requested, communication with the remote specialist physician may occur either at the time of the consultation or within 30 days of the patient’s

notification of the results of the consultation. Health care providers involved in the store and forward process shall ensure informed consent from the patient. For purposes of this subchapter, "store and forward" shall have the same meaning as in 8 V.S.A. § 4100k.

Sec. 5. RULEMAKING

(a) The commissioner of Vermont health access may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this act.

(b) The commissioner of banking, insurance, securities, and health care administration may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this act.

Sec. 6. EFFECTIVE DATE

(a) Sec. 1 of this act shall take effect on October 1, 2012 and shall apply to all health insurance plans on and after October 1, 2012 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event no later than October 1, 2013.

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

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Health Care agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 523

Rep. Koch of Barre Town, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to revising the state highway condemnation law

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

(a) The intent of the changes to the definition of necessity made in this act is to state the definition in accordance with State Transportation Board v. May, 137 Vt. 320 (1979), and to reorganize the definition for the sake of clarity. No substantive change is intended.

(b) The standard of review of the agency of transportation's determination of necessity established in 19 V.S.A. § 505(a)(3) of this act is intended to replace the former language of 19 V.S.A. § 507(a) stating that "the exercise of reasonable discretion upon the part of the agency shall not be presumed," as

well as to replace the standard of review adopted in *Latchis v. State Hwy. Bd.*, 120 Vt. 120 (1957) and relied upon in subsequent cases.

Sec. 2. 19 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CONDEMNATION FOR STATE HIGHWAY PROJECTS

§ 500. INTENT

The purpose of this chapter is to ensure that a property owner receives fair treatment and just compensation when the owner's property is taken for state highway projects, and that condemnation proceedings are conducted expeditiously so that highway projects in the public interest are not unnecessarily delayed.

§ 501. DEFINITIONS

The following words and phrases as used in this chapter shall have the following meanings:

(1) "Necessity" ~~shall mean~~ means a reasonable need which considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. Necessity shall not be measured merely by expense or convenience to the condemning party. ~~Due~~ Necessity includes a reasonable need for the highway project in general as well as a reasonable need to take a particular property and to take it to the extent proposed. In determining necessity, consideration shall be given to the:

(A) adequacy of other property and locations ~~and to~~;

(B) ~~the~~ quantity, kind, and extent of cultivated and agricultural land which may be taken or rendered unfit for use, immediately and over the long term, by the proposed taking. ~~In this matter the court shall view the problem from both a long range agricultural land use viewpoint as well as from the immediate taking of agricultural lands which may be involved. Consideration also shall be given to the;~~

(C) effect upon home and homestead rights and the convenience of the owner of the land; ~~to the~~

(D) effect of the highway upon the scenic and recreational values of the highway; ~~to the~~

(E) need to accommodate present and future utility installations within the highway corridor; ~~to the~~

(F) need to mitigate the environmental impacts of highway construction; and ~~to the~~

(G) effect upon town grand lists and revenues.

(2) Damages resulting from the taking or use of property under the provisions of this chapter shall be the value for the most reasonable use of the property or right in the property, and of the business on the property, and the direct and proximate decrease in the value of the remaining property or right in the property and the business on the property. The added value, if any, to the remaining property or right in the property, which accrues directly to the owner of the property as a result of the taking or use, as distinguished from the general public benefit, shall be considered in the determination of damages.

(3) “Interested person” or “person interested in lands” or “property owner” means a person who has a legal interest of record in the property ~~affected~~ taken or proposed to be taken.

§ 502. AUTHORITY; PRECONDEMNATION ~~PROCEDURE~~ HEARING

(a) Authority. ~~The transportation board agency, when in its judgment the interest of the state requires, shall request the agency to~~ may take any land or rights in land, including easements of access, air, view and light, deemed property necessary to lay out, relocate, alter, construct, reconstruct, maintain, repair, widen, grade, or improve any state highway, including affected portions of town highways. All property rights shall be taken in fee simple whenever practicable. In furtherance of these purposes, the agency may enter upon land adjacent to the proposed highway or upon other lands for the purpose of examination and making necessary surveys. However, that lands to conduct necessary examinations and surveys; however, the agency shall do this work shall be done with minimum damage to the land and disturbance to the owners and shall be subject to liability for actual damages. All property taken permanently shall be taken in fee simple whenever practicable. For all state highway projects involving property acquisitions, the agency shall follow the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act (“Act”) and its implementing regulations, as may be amended.

(b) The agency, in the construction and maintenance of limited access highway facilities, may also take any land or rights of the landowner in land under 9 V.S.A. chapter 93, subchapter 2, relating to advertising on limited access highways.

(c) Public hearing; notice of hearing.

(1) A public hearing shall be held for the purpose of receiving suggestions and recommendations from the public prior to the agency’s initiating proceedings under this chapter for the acquisition of any ~~lands or rights property~~. The hearing shall be conducted by the agency. ~~Public notice shall be given by printing~~

(2) The agency shall prepare an official notice stating the purpose for which the property is desired and generally describing the highway project.

(3) Not less than 30 days prior to the hearing, the agency shall:

(A) cause the official notice not less than 30 days prior to the hearing to be printed in a newspaper having general circulation in the area affected. A;

(B) mail a copy of the notice shall be mailed to the board, the legislative bodies of the municipalities affected; and a copy sent

(C) by certified mail a copy of the notice to all known owners of lands and rights in land affected by whose property may be taken as a result of the proposed improvement.

~~The notice shall set forth the purpose for which the land or rights are desired and shall generally describe the improvement to be made.~~

~~The board may designate one or more members to attend the hearing and shall do so if a written request is filed with the board at least 10 days prior to the public hearing.~~

(4) At the hearing the agency shall set forth the reasons for the selection of the route intended and shall hear and consider all objections, suggestions for changes, and recommendations made by any person interested.

~~If no board member attended the hearing, a written request may be filed with the board within 30 days after the public hearing asking the board to review the project and the record of the hearing. In such event, the board shall complete its review within 30 days after the request.~~

~~Following the hearing, unless otherwise directed by the board, the agency may proceed to lay out the highway and survey and acquire the land to be taken or affected, giving consideration to any objections, suggestions, and recommendations received from the public.~~

* * *

§ 503. PRECONDEMNATION NECESSITY DETERMINATION; SURVEY AND APPRAISAL; OFFER OF JUST COMPENSATION; NOTICE OF RIGHTS; NEGOTIATION; STIPULATION

(a) When Necessity determination; appraisal.

(1) After conducting the hearing required under section 502 of this chapter and considering the objections, suggestions, and recommendations received from the public, if the agency of transportation desires to acquire land or any rights in land finds the taking of property to be necessary for the purpose of laying out, relocating, altering, constructing, reconstructing, maintaining, repairing, widening, grading, or improving a state highway, it

shall cause the ~~land~~ property proposed to be acquired or affected to be surveyed and shall make a written determination of necessity consistent with subdivision 501(1) of this chapter. Prior to initiating negotiations under this section, the agency shall cause property proposed to be taken to be appraised unless:

(A) the property owner offers to donate the property after being fully informed by the agency of the right to receive just compensation for damages and releasing the agency from the obligation to conduct an appraisal; or

(B) the agency determines that an appraisal is unnecessary because the valuation question is uncomplicated and the agency estimates the property to have a low fair market value, in accordance with 49 C.F.R. § 24.102.

(2) The agency shall prepare a waiver valuation if an appraisal is not conducted, pursuant to subdivision (1)(B) of this subsection.

(3) The property owner or his or her designee shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(b) Offer of just compensation. Prior to the initiation of negotiations, the agency shall prepare a written offer of just compensation, which shall include a statement of the basis for the offer and a legal description of the property proposed to be acquired.

(c) Negotiation. Prior to instituting condemnation proceedings under section 504 of this chapter, the agency shall make every reasonable effort to acquire property expeditiously by negotiation and shall comply with subsection (d) of this section.

(d) Notice and other documents. The agency shall hand-deliver or send by mail to interested persons a notice of procedures and rights and the offer of just compensation. The notice of procedures and rights shall include an explanation of the proposed state highway project and its purpose, and statements that:

(1) the agency is seeking to acquire the property described in the offer of just compensation for the project;

(2) agency representatives are available to discuss the offer of just compensation;

(3) the agency does not represent the property owner, and he or she may benefit from the advice of an attorney;

(4) if the agency and the property owner are unable to reach agreement on the agency's legal right to take the property, on just compensation, or both,

the agency may file a complaint in superior court to determine the contested issues;

(5) the property owner may enter into an agreement with the agency stipulating to the agency's legal right to take his or her property, without waiving the owner's right to object to the amount of compensation offered and to demand trial by jury to assess compensation;

(6) the property owner has the right to contest the necessity of the taking, the public purpose of the project, or the amount of the offer of just compensation, but must contest these issues by filing an answer to the complaint with the court. If the owner does not file a timely answer, the court may enter a default judgment in favor of the agency;

(7) a copy of an appraisal or an estimated valuation ("waiver valuation") will be furnished by the agency at the owner's request;

(8) summarize the property owner's right to relocation assistance, if applicable.

(e) Agreement on legality of taking, damages.

(1) An interested person may enter into an agreement with the agency stipulating to the necessity of the taking and the public purpose of the project, to damages, or both. The agreement shall include:

(A) a statement that the person executing the agreement has examined a survey or appraisal of the property to be taken;

(B) an explanation of the legal and property rights affected;

(C) a statement that the person has received the documents specified in subsection (d) of this section; and

(D) if an agreement stipulating only to the legality of the taking, a statement that the right of the person to object to the amount of compensation offered, and to demand trial by jury to assess damages, is not affected by the agreement.

(2) If an interested person executes an agreement stipulating to the legality of the taking in accordance with subdivision (1) of this subsection, the agency shall prepare, within 10 business days of entering into the agreement, a notice of condemnation and shall file it in accordance with section 506 of this chapter. The notice of condemnation shall include a legal description of the property to be taken.

§ 504. PETITION FOR HEARING TO DETERMINE NECESSITY COMPLAINT; SERVICE; ANSWER

~~(a) Upon completion of the survey the agency may petition a superior judge, setting forth in the petition that it proposes to acquire certain land, or rights in land, and describing the lands or rights, and the survey shall be attached to the petition and made a part of the petition. The petition shall set forth the purposes for which the land or rights are desired, and shall contain a request that the judge fix a time and place when he or she, or some other superior judge, will hear all parties concerned and determine whether the taking is necessary.~~ Verified complaint. If a property owner has not entered into an agreement stipulating to the necessity of a taking and the public purpose of a highway project, or if a property owner and the agency have not agreed on damages, the agency shall file a verified complaint in the civil division of the superior court in a county where the project is located seeking an order of condemnation, a determination of damages, or both. The complaint shall name as defendants each interested person who has not stipulated to the legality of a taking, or who has not reached agreement with the agency on damages, and shall include:

(1) statements that the agency has complied with subsection 503(d) of this chapter;

(2) the agency's written determination of necessity;

(3) a general description of the negotiations undertaken; and

(4) a survey of the proposed project, and legal descriptions of the property and of the interests therein proposed to be taken.

(b) Service and notice.

(1) Except as otherwise provided in this section, the agency shall serve the complaint and summons in accordance with the Vermont Rules of Civil Procedure and section 519 of this chapter.

(2) The agency shall publish a notice of the complaint, the substance of the summons, and a description of the project and of the lands to be taken in a newspaper of general circulation in the municipalities where the project is located, once a week on the same day of the week for three consecutive weeks. The agency shall mail a copy of the newspaper notice to the last known address of an interested person not otherwise served, if any address is known. Upon affidavit by the secretary that diligent inquiry has been made to find all interested persons and, if applicable, that service on a known interested person cannot with due diligence be made in or outside the state by another method prescribed in Rule 4 of the Vermont Rules of Civil Procedure, the newspaper publication shall be deemed sufficient service on all unknown interested persons and all known interested persons who cannot otherwise be served.

Service by newspaper publication is complete the day after the third publication.

(3) Unless otherwise served under subdivision (1) of this subsection, the agency shall mail a copy of the complaint to the clerk, legislative body, and board of listers of each municipality in which land is proposed to be taken. The clerk with responsibility over the land records shall record the copy of the complaint (including the survey), and shall enter the names of the property owners named in the complaint in the general index of transactions affecting the title to real estate.

(c) Necessity, public purpose; default. If an interested person does not file a timely answer denying the necessity of a taking or the public purpose of the project, the court may enter an order of condemnation by default.

§ 505. HEARING PROCEEDINGS TO DETERMINE NECESSITY
LEGALITY OF TAKING; APPEAL AND STAY

(a) ~~The superior judge to whom the petition is presented shall fix the time for hearing, which shall not be more than 60 nor less than 40 days from the date he or she signs the order. Likewise, he or she shall fix the place for hearing, which shall be the superior court or any other place within the county in which the land in question is located. If the superior judge to whom the petition is presented cannot hear the petition at the time set he or she shall call upon the administrative judge to assign another superior judge to hear the cause at the time and place assigned in the order.~~ Hearing.

(1) If a timely answer is filed denying the necessity of a taking or the public purpose of the project, the court shall schedule a final hearing to determine these issues, which shall be held within 90 days of expiration of the deadline for filing an answer by the last interested person served. Absent good cause shown, this hearing date shall not be postponed beyond the 90-day period.

(2) At the hearing, the agency shall present evidence showing the necessity of the takings and the public purpose of the project.

(3)(A) The court shall presume that the agency's determination of the necessity for and public purpose of a project is correct, unless a party demonstrates bad faith or abuse of discretion on the part of the agency.

(B) The court shall review *de novo* the agency's determination of the need to take a particular property and to take it to the extent proposed.

(4) Unless the parties otherwise agree or unless the court determines that it is in the public interest to proceed on questions of damages, proceedings to determine damages shall be stayed pending a final determination, including the

exhaustion of all appeal rights, of any contested questions of necessity and public purpose.

(b) If the land proposed to be acquired extends into two or more counties, then a single hearing to determine necessity may be held in one of the counties. In fixing the place for hearing, the superior judge to whom the petition is presented shall take into consideration the needs of the parties. Discovery. Absent a showing of unfair prejudice, the right to discovery on the issues of necessity and public purpose shall be limited to the plans, surveys, studies, reports, data, decisions, and analyses relating to approving and designing the highway project.

(c) Decision and order. If the court finds the proposed taking lawful, it shall issue an order of condemnation describing the property authorized to be taken, declaring the right of the agency to take the property by eminent domain, and providing that title to the property will be transferred to the agency after the agency has recorded the order and tendered or deposited payment. The court in its order may modify the extent of a proposed taking.

(d) Litigation expenses. If the court issues a judgment that the agency cannot acquire the property by condemnation, or if the agency abandons the condemnation proceeding other than under a settlement, the court shall award the property owner his or her reasonable litigation expenses, including costs and attorney's fees.

(e) Appeal, stay. An order of condemnation may be appealed or stayed in the same manner as a final judgment for possession of real estate under the Vermont Rules of Civil Procedure and the Vermont Rules of Appellate Procedure. A decision denying an order of condemnation likewise may be appealed.

§ 506. SERVICE AND PUBLICATION OF NECESSITY PETITION AND NOTICE OF HEARING; ANSWER RECORDING OF ORDER OR NOTICE OF CONDEMNATION; PAYMENT; VESTING OF TITLE

(a)(1) The agency shall prepare a notice of the necessity hearing. The notice shall include the names of the municipalities in which the lands to be taken or affected are located; the names of all interested persons within the meaning of subdivision 501(2) of this chapter; and a brief statement identifying the proposed project and its location, and the date, time and place of the necessity hearing. The agency shall make service of copies of the petition, the notice of hearing and the survey (for the purposes of this section, "survey" means a plan, profile, or cross section of the proposed project) as follows Within 15 business days of the issuance of an order of condemnation by the court or of the preparation of a notice of condemnation by the agency in accordance with subdivision 503(e)(2) of this chapter, the agency shall:

~~(1) Upon interested persons in accordance with the Vermont Rules of Civil Procedure for service of process, except as stated in subsection (b) of this section and in section 519 of this title or, with respect to interested parties with no known residence or place of business within the state, by certified mail, return receipt requested. The copy of the survey that is served upon interested persons need include only the particular property in which those persons have an interest.~~

~~(2) One copy each upon the clerk, legislative body, and board of listers of each affected municipality by certified mail. The clerk shall record the notice of hearing in the municipal land records, at the agency's expense, and shall enter the names of the interested persons in the general index of transactions affecting the title to real estate.~~

(A) record the order or notice, including the description of the property taken, in the office of the clerk of the town where the land is situated;

(B) tender to the property owner, or deposit with the court, the amount of the offer of just compensation prepared under section 503(b) of this chapter or any other amount agreed to by the owner; and

(C) mail or deliver to the owner a copy of the order or notice.

(2) Payment shall be deemed to have been tendered when the agency offers payment directly to an interested person or, if an interested person has not provided the agency necessary identification information for purposes of taxation, when the agency makes payment into an escrow account that the interested person can access upon providing the necessary information.

~~(b) The agency also shall publish the notice of hearing in a newspaper of general circulation in the municipalities in which the proposed project lies. Publication shall be made once a week for three consecutive weeks on the same day of the week, the last publication to be not less than five days before the hearing. When service on an interested person cannot with due diligence be made within or outside the state, upon affidavit of the secretary of transportation or the secretary's designee that diligent inquiry has been made to find the interested person, the publication shall be deemed sufficient service on that person. The affidavit shall be accompanied by an affidavit of the person attempting service that the location of the interested person is unknown and that the interested person has no known agent upon whom service can be made~~
Title in the property shall vest in the state, and the agency may proceed with the project, upon the later of:

(1) the agency's recording of the condemnation order or notice; or

(2) the agency's tendering to the owner, or depositing with the court, the offered or agreed amount of compensation in accordance with this section.

~~(c) Compliance with these provisions of this title shall constitute sufficient notice to and service upon all interested persons and municipalities. Except in the case of agreed compensation, an owner's acceptance and use of a payment under this section does not affect his or her right to contest damages under section 512 of this chapter, but shall bar the owner's right to contest necessity and public purpose.~~

~~(d) No service need be made upon any interested person or municipality that has stipulated to necessity in accordance with section 508 of this chapter. The agency shall comply with the provisions of 27 V.S.A. chapter 17 governing the composition and recording of project layout plats.~~

~~(e) Unless an answer denying the necessity or propriety of the proposed taking is filed by one or more parties served or appearing in the proceedings on or before the date set in the notice of hearing on the petition, the necessity and propriety shall be deemed to be conceded, and the court shall so find. [Repealed.]~~

~~§ 507. HEARING AND ORDER OF NECESSITY CATTLE PASSES~~

~~(a) At the time and place appointed for the hearing, the court, consisting of the superior judge signing the order or the other superior judge as may be assigned and, if available within the meaning of 4 V.S.A. § 112, the assistant judges of the county in which the hearing is held shall hear all persons interested and wishing to be heard. If any person owning or having an interest in the land to be taken or affected appears and objects to the necessity of taking the land included within the survey or any part of the survey, then the court shall require the agency of transportation to proceed with the introduction of evidence of the necessity of the taking. The burden of proof of the necessity of the taking shall be upon the agency of transportation and shall be established by a fair preponderance of the evidence, and the exercise of reasonable discretion upon the part of the agency shall not be presumed. The court may cite in additional parties including other property owners whose interest may be concerned or affected and shall cause to be notified, the legislative body of all adjoining cities, towns, villages, or other municipal corporations affected by any taking of land or interest in land based on any ultimate order of the court. The court shall make findings of fact and file them and any party in interest may appeal under the Vermont Rules of Appellate Procedure adopted by the supreme court. The court shall, by its order, determine whether the necessity of the state requires the taking of the land and rights as set forth in the petition and may find from the evidence that another route or routes are preferable in which case the agency shall proceed in accordance with section 502 of this title and this section and may modify or alter the proposed taking in such respects as to the court may seem proper.~~

~~(b) By~~ In its order of condemnation, the court may ~~also~~ direct the agency of ~~transportation~~ to install passes under the highway as ~~specified in this chapter~~ for the benefit of ~~the~~ large modern farm properties, the fee title of which is owned by any party to the proceedings, where a reasonable need is shown by the owner. The court may consider evidence relative to present and anticipated future highway traffic volume, future land development in the area, and the amount and type of acreage separated by the highway in determining the need for an underpass of larger dimensions than a standard cattle-pass of reinforced concrete, metal, or other suitable material which provides usable dimensions five feet wide by six feet three inches high. Where a herd of greater than 50 milking cows is consistently maintained on the property, the court may direct that the dimensions of the larger underpass shall be eight feet in width and six feet three inches in height to be constructed of reinforced concrete, and the owner of the farm property shall pay one-fourth of the difference in overall cost between the standard cattle-pass and the larger underpass. Where the owner of the farm property desires an underpass of dimensions greater than eight feet in width and six feet three inches in height, the underpass may be constructed if feasible and in accordance with acceptable design standards, and the total additional costs over the dimensions specified shall be paid by the owner. The provisions of this section shall not be interpreted to prohibit the agency of ~~transportation~~ and the property owner from determining the specifications of a cattle-pass or underpass by mutual agreement at any time, either prior or subsequent to the date of the court's order. The owner of a fee title shall be interpreted to include lessees of so-called lease land.

§ 508. STIPULATION OF NECESSITY

~~(a) A person or municipality owning or having an interest in lands or rights to be taken or affected, a municipality in which the land is to be taken or affected, and other interested persons may stipulate as to the necessity of the taking.~~

~~(b) The stipulation shall be an affidavit sworn to before a person authorized to take acknowledgments, and, in the case of a municipality, shall be executed by a majority of its legislative body. The stipulation shall be in a form approved by the attorney general and shall include but not be limited to the following:~~

~~(1) a recital that the person or persons executing the stipulation have examined the applicable plan and survey of the lands or rights to be taken;~~

~~(2) an explanation of the legal and property rights affected; and~~

~~(3) that the right of the person to adequate compensation is not affected by executing the stipulation.~~

~~(c) The stipulation shall be invalid unless within two years of the date of the stipulation an order of necessity is granted. [Repealed.]~~

§ 509. PROCEDURE

~~(a) The stipulation shall be filed with the appropriate superior court, together with the petition for an order of necessity. Notice of the hearing on the petition shall be published in accordance with section 506 of this title. Other interested persons who have not stipulated to necessity shall be notified and served in accordance with section 506 of this title. The court may also cite in additional parties in accordance with section 507 of this title.~~

~~(b) If a person claiming to be affected or concerned files a notice of objection to a proposed finding of necessity prior to the date of the hearing, the court shall at the hearing determine if the person has an interest in lands or rights to be taken such as to be entitled to object to the proposed finding of necessity, and, if he is so affected or concerned, whether there is necessity for the taking, in accordance with section 507 of this title. Nothing in this section shall prohibit an interested person from consenting to necessity. The court may continue the hearing to allow proper preparation by the agency of transportation and interested parties.~~

~~(c) If all interested persons and municipalities stipulate as to the necessity of the taking, the court may immediately issue an order of necessity.~~

~~(d) Interested persons or municipalities who do not consent to necessity are entitled to a necessity hearing in accordance with the provisions of this chapter.~~

~~(e) A copy of the order finding necessity shall be mailed to each person and municipality who consented by stipulation to necessity, by certified mail, return receipt requested.~~

~~(f) The stipulation of necessity shall not affect the rights of the person with regard to fixing the amount of compensation to be paid in accordance with sections 511-514 of this title. However, the transportation board may enter into an agreement for purchase of lands or rights affected, provided the agreement is conditioned upon the issuance of an order of necessity. [Repealed.]~~

§ 510. APPEAL FROM ORDER OF NECESSITY

~~(a) If the state, municipal corporation or any owner affected by the order of the court is aggrieved by the order, an appeal may be taken to the supreme court. In the event an appeal is taken according to these provisions from an order of necessity, its effect may be stayed by the superior court or the supreme court where the person requesting the stay establishes:~~

~~(1) that he or she has a likelihood of success on the merits;~~

~~(2) that he or she will suffer irreparable harm in the absence of the requested stay;~~

~~(3) that other interested parties will not be substantially harmed if a stay is granted; and~~

~~(4) that the public interest supports a grant of the proposed stay.~~

~~(b) If no stay is granted or, if a stay is granted, upon final disposition of the appeal, a copy of the order of the court shall be recorded within 30 days in the office of the clerk of each town in which the land affected lies.~~

~~(c) Thereafter for a period of one year, the agency of transportation may request the transportation board to institute proceedings for the condemnation of the land included in the survey as finally approved by the court without further hearing or consideration of any question of the necessity of the taking. In no event shall title to or possession of the appealing landowner's property pass to the state until there is a final adjudication of the issue of the necessity and propriety of the proposed taking.~~

~~(d) If the agency of transportation is delayed in requesting the transportation board to institute condemnation proceedings within the one year period by court actions or federal procedural actions, the time lost pending final determination shall not be counted as part of the one year necessity period. [Repealed.]~~

~~§ 511. HEARING TO DETERMINE AMOUNT OF COMPENSATION~~

~~(a) Following a determination of the necessity of the taking as above provided, when an owner of land or rights and the agency of transportation are unable to agree on the amount of compensation to be paid, and if the agency of transportation desires to proceed with the taking, the transportation board shall appoint a time and place in the county where the land is situated for examining the premises and hearing parties interested, giving at least 10 days' notice in writing to the person owning the land or having an interest in the land. At that time and place, a member or members of the transportation board shall hear any person having an interest in the land and desiring to be heard.~~

~~(b) If the land proposed to be acquired extends into two or more counties, the board may hold a single hearing in one of the counties to determine compensation. In fixing the place for hearing, the transportation board shall take into consideration the needs of the parties. [Repealed.]~~

§ 512. ~~ORDER FIXING COMPENSATION; INVERSE CONDEMNATION;
RELOCATION ASSISTANCE DETERMINATION OF DAMAGES;
CREDIT OF STATE PLEDGED~~

(a) ~~Within 30 days after the compensation hearing, the board shall by its order fix the compensation to be paid to each person from whom land or rights are taken. Within 30 days of the board's order, the agency shall file and record the order in the office of the clerk of the town where the land is situated, deliver to each person a copy of that portion of the order directly affecting the person, and pay or tender the award to each person entitled. A person to whom a compensation award is paid or tendered under this subsection may accept, retain, and dispose of the award to his or her own use without prejudice to the person's right of appeal, as provided in section 513 of this title. Upon the payment or tender of the award as above provided, the agency may proceed with the work for which the land is taken. If the agency and an interested person are unable to agree on damages, the court or, if a party demands trial by jury, the jury, shall first determine the total damages as between the agency and all interested persons claiming an interest in a subject property. The agency may withdraw from further participation in the trial after total damages are awarded. The court or jury shall then determine any further questions in the action, including the apportionment of the amount awarded.~~

(b) ~~In the event the~~ Costs; other litigation expenses.

(1) ~~If a plaintiff prevails against the state in an action for in an inverse condemnation, arising under this title or as a result of the acquisition of real property for a program or project undertaken by a federal agency, or with federal financial assistance action, the court shall determine an award or allow to the plaintiff as part of its judgment such sum as will, in the opinion of the court, reimburse the plaintiff for his or her reasonable costs, disbursements and other litigation expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding.~~

(2) If the property owner's damages award is more than the agency's offer of just compensation or offer of judgment, whichever is greater, the court shall award the owner his or her reasonable costs. If the damages award is less than or equal to the greater of the agency's offer of just compensation or offer of judgment, the court shall award the agency its reasonable costs.

(c) ~~When federal funds are available to provide relocation assistance and payments to persons displaced as a result of federal and federally assisted programs, any state agency may match the federal funds to the extent provided by federal law and grant relocation assistance and payments in the instances and on the conditions set forth by federal law and regulations. [Repealed.]~~

(d) The credit of the state of Vermont is pledged to the payment of all amounts awarded or allowed under the provisions of the chapter, and these amounts shall be lawful obligations of the state of Vermont.

~~§ 513. APPEAL FROM ORDER FIXING COMPENSATION; JURY TRIAL OF DAMAGES AWARD~~

~~(a) A person or a municipal corporation interested in the lands affected by a relocation who is dissatisfied with the decision of the transportation board as to amount of damages awarded for the lands, may appeal to the superior court where the land is situated within ninety days after the report has been filed, and any number of persons aggrieved may join in the appeal.~~

~~(b) Any person appealing the award of damages made by the transportation board, and the agency of transportation, shall be entitled to a jury trial in the superior court. Any party aggrieved by a decision on damages may appeal to the supreme court in accordance with the Vermont Rules of Appellate Procedure.~~

~~§ 514. COSTS~~

~~When the appellant is allowed a sum greater than was awarded by the transportation board, the court shall tax costs against the agency of transportation. When the award fixed by the transportation board is upheld, the court shall tax costs against the appellant. The court shall fix the time for paying the damages awarded. [Repealed.]~~

~~§ 515a. EVIDENCE OF HIGHWAY COMPLETION~~

~~The lack of a certificate of completion of a highway shall not alone constitute conclusive evidence that a highway is not public. [Repealed.]~~

* * *

~~§ 517. VESTING OF TITLE~~

~~Title to the lands taken, or other rights acquired, under this chapter, shall vest in the state upon the filing for record with the town clerk of the transportation board's order as provided in section 512 of this chapter, unless previously acquired by deed or other appropriate instrument. [Repealed.]~~

* * *

~~§ 519. CONDOMINIUMS; COMMON AREAS AND FACILITIES~~

~~(a) For purposes of this section, the terms "apartment owner," "association of owners," "common areas and facilities" facilities, and "declaration" shall have the same meanings as in the Condominium Ownership Act, 27 V.S.A. chapter 15.~~

(b) Notwithstanding any other provision of law, whenever the agency under ~~this chapter 5 of this title~~ proposes to acquire any common areas and facilities of a condominium, the association of owners shall constitute the interested person or persons interested in lands in lieu of the individual apartment owners for purposes of the necessity hearing, the compensation hearing, and any appeals therefrom.

(c) The agency shall serve one copy of the ~~necessity petition~~ complaint and summons upon the association of owners through one of its officers or agents, instead of upon the individual apartment owners.

(d) The agency shall make the compensation check payable to the association of owners, which shall then make proportional payments to the apartment owners as their interests appear in the declaration.

Sec. 3. 19 V.S.A. § 1(12) is amended to read:

(12) "Highways" are only such as are laid out in the manner prescribed by statute; or roads which have been constructed for public travel over land which has been conveyed to and accepted by a municipal corporation or to the state by deed of a fee or easement interest; or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located; or such as may be from time to time laid out by the agency or town. However, the lack of a certificate of completion of a state or town highway shall not alone constitute conclusive evidence that the highway is not public. The term "highway" includes rights-of-way, bridges, drainage structures, signs, guardrails, areas to accommodate utilities authorized by law to locate within highway limits, areas used to mitigate the environmental impacts of highway construction, vegetation, scenic enhancements, and structures. The term "highway" does not include state forest highways, management roads, easements, or rights-of-way owned by or under the control of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

* * * Conforming Changes * * *

Sec. 4. 5 V.S.A. § 652 is amended to read:

§ 652. ~~PETITION TO SUPERIOR COURT~~

The secretary of transportation or the legislative body of a municipality, as defined in 24 V.S.A. § 2001, or the committee representing two or more municipalities, when authorized by vote of their legislative bodies, may ~~petition a~~ proceed in superior judge court as provided in 19 V.S.A. chapter 5, except as otherwise provided in this subchapter.

Sec. 5. REPEAL

5 V.S.A. § 654 (answer in airport condemnation proceedings) and 10 V.S.A. § 959 (determination of damages for taking of land for flood control project) are repealed.

Sec. 6. 10 V.S.A. §§ 958 and 960 are amended to read:

§ 958. EMINENT DOMAIN; DETERMINING NECESSITY

(a) The commissioner of the department of environmental conservation may ~~petition~~ file a complaint in the superior court for any county in which a portion of the real estate lies to determine that necessity requires that the state acquire real estate within the state, including real estate held for public use in the name of the state or any municipality, for the purpose of flood control projects.

* * *

(c) The ~~petition~~ complaint, the service thereof and the proceedings in relation thereto, including rights of appeal, shall conform with and be controlled by ~~chapter 5 of Title 19~~ chapter 5.

§ 960. ENTRY AUTHORIZED

The commissioner of the department of environmental conservation or his or her authorized agents may enter upon any real estate at reasonable times and places for the purpose of making surveys or other investigations under this section, subsection 952(b) and sections 953, ~~957-959~~ 957-958 and 961 of this title. The owners of damaged real estate may recover for damages sustained by reason of the preliminary entry authorized by this section in an action at law against the commissioner.

Sec. 7. 24 V.S.A. § 4012 is amended to read:

§ 4012. EMINENT DOMAIN; EXEMPTION OF PROPERTY FROM EXECUTION

(a) An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the

manner provided for the condemnation of land or rights therein ~~by the state transportation board~~ as set forth in 19 V.S.A. §§ ~~501-514~~ 500-513 and acts amendatory thereof or supplementary thereto. Property already devoted to a public use may be acquired, provided that no real property belonging to the city, county, state, or any political subdivision thereof may be acquired without its consent.

* * *

Sec. 8. 24 V.S.A. § 5104 is amended to read:

§ 5104. PURPOSES AND POWERS

(a) The authority may purchase, own, operate, or provide for the operation of land transportation facilities, and may contract for transit services, conduct studies, and contract with other governmental agencies, private companies, and individuals.

(b) The authority shall be a body politic and corporate with the powers incident to a municipal corporation under the laws of the state of Vermont consistent with the purposes of the authority, and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its functions, including, ~~but not limited to,~~ the following:

* * *

(11) within its area of operation, to acquire by the exercise of the power of eminent domain any real property which it may have found necessary for its purposes, in the manner provided for the condemnation of land or rights therein as set forth in 19 V.S.A. §§ ~~501-514~~ 500-513.

* * *

* * * Transition Provision * * *

Sec. 9. TRANSITION

(a) The state highway condemnation procedures of 19 V.S.A. chapter 5 in effect prior to July 1, 2012, shall continue to apply to all superior court and transportation board proceedings brought by the agency prior to July 1, 2012.

(b) With respect to any superior court proceeding brought by the agency on or after July 1, 2012 under 19 V.S.A. chapter 5, as amended by this act, the agency shall be required to demonstrate that it has satisfied the requirements of this act with respect to precondemnation appraisals, offers of just compensation, and negotiations with property owners.

Sec. 10. REPORT

By October 15, 2013, the agency shall submit to the house and senate committees on judiciary and on transportation a report listing:

(1) every acquisition of property, whether by agreement or through condemnation, for which the agency prepared a waiver valuation in fiscal year 2013;

(2) the value of the property estimated in the waiver valuation;

(3) whether an appraisal of the property was obtained by the agency or the property owner and, if so, the appraised value of the property;

(4) the date and the amount of the first offer made to the property owner;

(5) the date and the amount of the final payment to the property owner for the property; and

(6) whether the final payment to the property owner resulted from an agreement prior to the filing of a condemnation action, an agreement following the filing of a condemnation action, or a superior court decision on compensation.

* * * Effective Date * * *

Sec. 11. EFFECTIVE DATES

(a) This section and Sec. 9 (transition provision) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2012.

Rep. Bissonnette of Winooski, for the committee on Transportation, recommended that the bill ought to pass when amended as recommended by the committee on Judiciary.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Judiciary and Transportation agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 524

Rep. Evans of Essex, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the regulation of professions and occupations

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * General Provisions * * *

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An office of professional regulation is created within the office of the secretary of state. The office shall have a director who shall be appointed by the secretary of state and shall be an exempt employee. The following boards or professions are attached to the office of professional regulation:

* * *

(41) Audiologists and speech-language pathologists

(42) Landscape architects.

Sec. 2. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

(a) ~~Upon request, the~~ The office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The administrative services provided by the office shall include:

* * *

(12) With the assistance of the boards, establishing a schedule of license renewal and termination dates so as to distribute the renewal work in the office as effectively as possible. Licenses may be issued and renewed according to that schedule for periods of up to two years with an appropriate pro rata adjustment of fees. A person whose initial license is issued within 90 days prior to the set renewal date shall not be required to renew the license until the end of the first full biennial licensing period following initial licensure.

* * *

Sec. 3. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

(a) In addition to the fees otherwise authorized by law, a board may charge the following fees:

* * *

(6) ~~Licenses granted under rules adopted pursuant to subdivision 129(a)(10) of this title, \$20.00.~~

* * *

Sec. 4. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board may exercise the following powers:

* * *

(10) Issue temporary licenses ~~to health care providers and veterinarians~~ during a declared state of emergency. ~~The health care provider or veterinarian~~ person to be issued a temporary license must be currently licensed, in good standing, and not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until the termination of the declared state of emergency or 90 days, whichever occurs first, as long as the licensee remains in good standing. Fees shall be waived when a license is required to provide services under this subdivision.

* * *

Sec. 5. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether or not the conduct at issue was committed within or outside the state, shall constitute unprofessional conduct:

* * *

(8) Failing to make available promptly to a person using professional health care services, that person's representative, or succeeding health care professionals or institutions, upon written request and direction of the person using professional health care services, copies of that person's records in the possession or under the control of the licensed practitioner, or failing to notify patients or clients how to obtain their records when a practice closes.

* * *

* * * Chiropractic * * *

Sec. 6. 26 V.S.A. § 528 is amended to read:

§ 528. BOARD PROCEDURES

(a) Annually the board shall elect from among its members a chair ~~and a~~, vice chair, and secretary, each to serve for one year. No person shall serve as chair or vice chair for more than three consecutive years.

(b) ~~The board shall meet at least semiannually for the purpose of examining applicants, if applications are pending. Meetings may be called by the chair or upon the request of three other members. [Repealed.]~~

(c) ~~Meetings shall be warned and conducted in accordance with the provisions of chapter 5 of Title 1. [Repealed.]~~

(d) A majority of the members of the board constitutes a quorum for transacting business and all action shall be taken upon a majority vote of the members present and voting.

Sec. 7. 26 V.S.A. § 532 is amended to read:

§ 532. EXAMINATIONS

(a) The board, or an examination service selected by the board, shall examine applicants for licensure. The examinations may include the following subjects: anatomy, physiology, physiotherapy, diagnosis, hygiene, orthopedics, histology, pathology, neurology, chemistry, bacteriology, x-ray interpretation, x-ray technic and radiation protection, and principles of chiropractic. The board may use a standardized national examination.

* * *

Sec. 8. 26 V.S.A. § 534 is amended to read:

§ 534. LICENSE RENEWAL ~~AND REINSTATEMENT~~

(a) Licenses shall be renewed every two years upon application and payment of the required fee. Failure to comply with the provisions of this section shall result in suspension of all privileges granted by the license beginning on the expiration date of the license. A license which has lapsed shall be ~~reinstated~~ renewed upon payment of the biennial renewal fee and the late renewal penalty.

(b) The board may adopt rules necessary for the protection of the public to assure the board that an applicant whose license has lapsed for more than three years is professionally qualified before the license is ~~reinstated~~ renewed. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

(c) In addition to the provisions of subsection (a) of this section, an applicant for renewal shall have satisfactorily completed continuing education as required by the board. For purposes of this subsection, the board may require, by rule, not more than 24 hours of approved continuing education as a condition of renewal.

Sec. 9. 26 V.S.A. § 541 is amended to read:

§ 541. DISCIPLINARY PROCEEDINGS; UNPROFESSIONAL CONDUCT

~~(a) A person licensed or registered under this chapter or a person applying for a license or reinstatement of a license shall not engage in unprofessional conduct.~~

~~(b) Unprofessional conduct means the following conduct and the conduct set forth in section 129a of Title 3 V.S.A. § 129a:~~

* * *

~~(14) Notwithstanding the provisions of 3 V.S.A. § 129a(a)(10), in the course of practice, failure to use and exercise that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent chiropractor engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred. [Repealed.]~~

~~(15) Failing to inform a patient verbally and to obtain signed written consent from a patient before proceeding from advertised chiropractic services for which no payment is required to chiropractic services for which payment is required.~~

~~(c) In connection with a disciplinary action, the board may refuse to accept the return of a license or registration tendered by the subject of a disciplinary investigation.~~

~~(d) The burden of proof in a disciplinary action shall be on the state to show by a preponderance of the evidence that the person has engaged in unprofessional conduct.~~

~~(e) After hearing and upon a finding of unprofessional conduct, or upon approval of a negotiated agreement, the board may take disciplinary action against the licensee, registrant or applicant. That action may include any of the following conditions or restrictions which may be in addition to or in lieu of suspension:~~

~~(1) A requirement that the person submit to care or counseling.~~

~~(2) A restriction that a licensee practice only under supervision of a named individual or an individual with specified credentials.~~

~~(3) A requirement that a licensee participate in continuing education as defined by the board, in order to overcome specified deficiencies.~~

~~(4) A requirement that the licensee's scope of practice be restricted to a specified extent.~~

~~(f) The board may reinstate a revoked license on terms and conditions it deems proper.~~

* * * Dental * * *

Sec. 10. REPEAL

26 V.S.A. chapter 13 (dentists and dental hygienists) is repealed.

Sec. 11. 26 V.S.A. chapter 12 is added to read:

CHAPTER 12. DENTISTS, DENTAL HYGIENISTS, AND
DENTAL ASSISTANTS

Subchapter 1. General Provisions

§ 561. DEFINITIONS

As used in this chapter:

- (1) "Board" means the board of dental examiners.
- (2) "Director" means the director of the office of professional regulation.
- (3) "Practicing dentistry" means an activity in which a person:
 - (A) undertakes by any means or method to diagnose or profess to diagnose or to treat or profess to treat or to prescribe for or profess to prescribe for any lesions, diseases, disorders, for deficiencies of the human oral cavity, teeth, gingiva, maxilla, or mandible or adjacent associated structures;
 - (B) extracts human teeth or corrects malpositions of the teeth or jaws;
 - (C) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances, or other structures to be used or worn as substitutes for natural teeth or adjusts those structures, except on the written prescription of a duly licensed dentist and by the use of impressions or casts made by a duly licensed and practicing dentist;
 - (D) administers general dental anesthetics;
 - (E) administers local dental anesthetics, except dental hygienists as authorized by board rule; or
 - (F) engages in any of the practices included in the curricula of recognized dental colleges.
- (4) "Dental hygienist" means an individual licensed under this chapter.
- (5) "Dental assistant" means an individual registered under this chapter.
- (6) "Direct supervision" means supervision by a licensed dentist who is readily available at the dental facility for consultation or intervention.

§ 562. PROHIBITIONS

- (a) No person may use in connection with a name any words, including "Doctor of Dental Surgery" or "Doctor of Dental Medicine," or any letters,

signs, or figures, including the letters "D.D.S." or "D.M.D.," which imply that a person is a licensed dentist when not authorized under this chapter;

(b) No person may practice as a dentist or dental hygienist unless currently licensed to do so under the provisions of this chapter.

(c) No person may practice as a dental assistant unless currently registered under the provisions of this chapter.

(d) A person who violates this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 563. EXEMPTIONS

The provisions of this chapter shall not apply to the following:

(1) the rights and privileges of physicians licensed under the laws of this state.

(2) an unlicensed person from performing merely mechanical work upon inert matter in a dental office or laboratory.

(3) a dental student currently enrolled in a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association who:

(A) provides dental treatment under the supervision of a licensed dentist at a state hospital or under licensed instructors within a dental school, college, or dental department of a university recognized by the board;

(B) serves as an intern in any hospital approved by the board; or

(C) participates in a supervised externship program authorized by a dental school recognized by the board in order to provide dental treatment under the direct supervision of a dentist licensed under the provisions of this chapter.

(4) upon prior application and approval by the board, a student of a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association who provides dental treatment for purposes of clinical study under the direct supervision and instruction and in the office of a licensed dentist.

(5) a dentist licensed in another state from consulting with a dentist licensed under the provisions of this chapter.

§ 564. OWNERSHIP AND OPERATION OF A DENTAL OFFICE OR BUSINESS

(a) A dental practice may be owned and operated by the following individuals or entities, either alone or in a combination thereof:

- (1) a dentist licensed under the provisions of this chapter;
- (2) a health department or clinic of this state or of a local government agency;
- (3) a federally qualified health center or community health center designated by the United States department of health and human services to provide dental services;
- (4) a 501(c)(3) nonprofit or charitable dental organization;
- (5) a hospital licensed under the laws of this state;
- (6) an institution or program accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training.

(b) The surviving spouse, the executor, or the administrator of the estate of a licensed dentist or the spouse of an incapacitated licensed dentist may employ a dentist licensed under the provisions of this chapter to terminate the practice of the deceased or incapacitated dentist within a reasonable length of time.

§ 565. DISPLAY OF LICENSE OR REGISTRATION

Every dentist, dental hygienist, and dental assistant shall display a copy of his or her current license or registration at each place of practice and in such a manner so as to be easily seen and read.

§ 566. NONDENTAL ANESTHESIA

(a) A dentist may administer nondental anesthesia if he or she meets the following requirements:

- (1) The administration of anesthesia occurs only in a hospital where the dentist is credentialed to perform nondental anesthesiology;
- (2) The dentist holds an academic appointment in anesthesiology at an accredited medical school;
- (3) The dentist has successfully completed a full anesthesiology residency in a program approved by the Accreditation Council for Graduate Medical Education;
- (4) The dentist has a diploma from the National Board of Anesthesiology; and
- (5) The dentist practicing nondental anesthesia is held to the same standard of care as a physician administering anesthesia under the same or similar circumstances.

(b) The board shall refer a complaint or disciplinary proceeding about a dentist arising from his or her administration of nondental anesthesiology to the board of medical practice, which shall have jurisdiction to investigate and sanction and limit or revoke the dentist's license to the same extent that it may for physicians licensed under chapter 23 of this title.

Subchapter 2. Board of Dental Examiners

§ 581. CREATION; QUALIFICATIONS

(a) The state board of dental examiners is created and shall consist of six licensed dentists in good standing who have practiced in this state for a period of five years or more and are in active practice; two licensed dental hygienists who have practiced in this state for a period of at least three years immediately preceding the appointment and are in active practice; one registered dental assistant who has practiced in this state for a period of at least three years immediately preceding the appointment and is in active practice; and two members of the public who are not associated with the practice of dentistry.

(b) Board members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004.

(c) No member of the board may be an officer or serve on a committee of his or her respective state or local professional dental, dental hygiene, or dental assisting organization, nor shall any member of the board be on the faculty of a school of dentistry, dental hygiene, or dental assisting.

§ 582. AUTHORITY OF THE BOARD

In addition to any other provisions of law, the board shall have the authority to:

- (1) provide general information to applicants;
- (2) explain complaint and appeal procedures to applicants, licensees, registrants, and the public;
- (3) adopt rules pursuant to the Vermont Administrative Procedure Act as set forth in 3 V.S.A. chapter 25:
 - (A) as necessary to carry out the provisions of this chapter;
 - (B) relating to qualifications of applicants, examinations, and granting and renewal of licenses and registrations;
 - (C) relating to the granting or renewal of a license to those who do not meet active practice requirements;
 - (D) setting standards for the continuing education of persons licensed or registered under this chapter;

(E) establishing requirements for licensing dental hygienists with five years of regulated practice experience;

(F) setting educational standards and standards of practice for the administration of anesthetics in the dental office;

(G) for the administration of local anesthetics by dental hygienists, including minimum education requirements and procedures for administration of local anesthetics;

(H) setting guidelines for general supervision of dental hygienists with no less than three years of experience by dentists with no less than three years of experience to perform tasks in public or private schools or institutions; and

(I) prescribing minimum educational, training, experience, and supervision requirements and professional standards necessary for practice pursuant to this chapter as a dental assistant; and

(4) undertake any other actions or procedures specified in, required by, or appropriate to carry out the provisions of this chapter.

§ 583. MEETINGS

The board shall meet at least annually on the call of the chair or two members.

§ 584. UNPROFESSIONAL CONDUCT

The board may refuse to give an examination or issue a license to practice dentistry or dental hygiene or to register an applicant to be a dental assistant and may suspend or revoke any such license or registration or otherwise discipline an applicant, licensee, or registrant for unprofessional conduct. Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a by an applicant or person licensed or registered under this chapter:

(1) abandonment of a patient;

(2) rendering professional services to a patient if the dentist, dental hygienist, or dental assistant is intoxicated or under the influence of drugs;

(3) promotion of the sale of drugs, devices, appliances, goods, or services provided for a patient in a manner to exploit the patient for financial gain or selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes;

(4) division of or agreeing to divide with any person for bringing or referring a patient the fees received for providing professional services to the patient;

(5) willful misrepresentation in treatments;

(6) practicing a profession regulated under this chapter with a dentist, dental hygienist, or dental assistant who is not legally practicing within the state or aiding or abetting such practice;

(7) gross and deceptive overcharging for professional services on single or multiple occasions, including filing of false statements for collection of fees for which services are not rendered;

(8) permitting one's name, license, or registration to be used by a person, group, or corporation when not actually in charge of or responsible for the treatment given;

(9) practicing dentistry or maintaining a dental office in a manner so as to endanger the health or safety of the public; or

(10) holding out to the public as being specially qualified or announcing specialization in any branch of dentistry by using terms such as "specialist in" or "practice limited to" unless:

(A) the American Dental Association has formally recognized the specialty and an appropriate certifying board for the specialty;

(B) the dentist has met the educational requirements and standards set forth by the Commission on Dental Accreditation for the specialty; or

(C) the dentist is a diplomate of the specialty certifying board recognized by the American Dental Association.

Subchapter 3. Dentists

§ 601. LICENSE BY EXAMINATION

To be eligible for licensure as a dentist, an applicant shall:

(1) have attained the age of majority;

(2) be a graduate of a dental college accredited by the Commission on Dental Accreditation of the American Dental Association; and

(3) meet the certificate, examination, and training requirements established by the board by rule.

§ 602. LICENSE BY ENDORSEMENT

(a) The board may grant a license to practice dentistry to an applicant who is a graduate of a dental college accredited by the Commission on Dental Accreditation of the American Dental Association and who:

(1) is currently licensed in good standing to practice dentistry in any jurisdiction of the United States or Canada which has licensing requirements deemed by the board to be substantially equivalent to those of this state;

(2) has successfully completed an approved emergency office procedures course;

(3) has successfully completed the dentist jurisprudence examination; and

(4) has met active practice requirements and any other requirements established by the board by rule.

(b) The board may grant a license to an applicant who is a graduate of a dental college accredited by the Commission on Dental Accreditation of the American Dental Association and who is licensed and in good standing to practice dentistry in a jurisdiction of the United States or Canada which has licensing requirements deemed by the board to be not substantially equivalent to those of this state if:

(1) the board has determined that the applicant's practice experience or education overcomes any lesser licensing requirement of the other jurisdiction in which the applicant is licensed; and

(2) the applicant:

(A) has been in full-time licensed practice of at least 1,200 hours per year for a minimum of five years preceding the application;

(B) is in good standing in all jurisdictions in which licensed;

(C) has successfully completed an approved emergency office procedures course;

(D) has successfully completed the dentist jurisprudence examination; and

(E) has met active practice requirements and any other requirements established by the board by rule.

Subchapter 4. Dental Hygienists

§ 621. LICENSE BY EXAMINATION

To be eligible for licensure as a dental hygienist, an applicant shall:

(1) have attained the age of majority;

(2) be a graduate of a program of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association;

(3) present to the board a certificate of the National Board of Dental Examiners;

(4) have completed an approved emergency office procedure course;

(5) have passed the American Board of Dental Examiners (ADEX) examination or other examination approved by the board; and

(6) have passed the dental hygienist jurisprudence examination.

§ 622. LICENSURE BY ENDORSEMENT

The board may grant a license to practice dental hygiene to an applicant who is a graduate of a program of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association and who:

(1) is currently licensed in good standing to practice dental hygiene in any jurisdiction of the United States or Canada which has licensing requirements deemed by the board to be substantially equivalent to those of this state;

(2) has successfully completed an approved emergency office procedures course;

(3) has successfully completed the dental hygienist jurisprudence examination; and

(4) has met active practice and any other requirements established by the board by rule.

§ 623. LICENSURE BY ENDORSEMENT BASED ON TRAINING AND EXPERIENCE

The board may grant a license to an applicant who has met the training and experience requirements established by the board by rule under its authority provided in this chapter.

§ 624. PRACTICE

(a) A dental hygienist may perform duties for which the dental hygienist has been qualified by successful completion of the normal curriculum offered by programs of dental hygiene accredited by the American Dental Association or in continuing education courses approved by the board. A dental hygienist may perform tasks in the office of any licensed dentist consistent with the rules adopted by the board.

(b) In public or private schools or institutions, a dental hygienist with no less than three years of experience may perform tasks under the general

supervision of a licensed dentist with no less than three years of experience as prescribed in guidelines adopted by the board by rule.

(c)(1) A dental hygienist, when authorized by the board by rule, may administer for dental hygiene purposes local anesthetics under the direct supervision and by the prescription of a licensed dentist.

(2) The license of a dental hygienist authorized by board rule to administer local anesthetics shall have a special endorsement to that effect.

Subchapter 5. Dental Assistants

§ 641. REGISTRATION

(a) No person shall practice as a dental assistant in this state unless registered for that purpose by the board.

(b) On a form prepared and provided by the board, each applicant shall state, under oath, that the dental assistant shall practice only under the supervision of a dentist.

(c) The supervising dentist shall be responsible for the professional acts of dental assistants under his or her supervision.

§ 642. PRACTICE

(a) Except as provided in subsection (b) of this section, a dental assistant may perform duties in the office of any licensed dentist consistent with rules adopted by the board and in public or private schools or institutions under the supervision of a licensed dentist or other dentist approved for the purpose by the board. The performance of any intraoral tasks shall be under the direct supervision of a dentist.

(b) The following tasks may not be assigned to a dental assistant:

(1) Diagnosis, treatment planning, and prescribing, including for drugs and medicaments or authorization for restorative, prosthodontic, or orthodontic appliances; or

(2) Surgical procedures on hard or soft tissues within the oral cavity or any other intraoral procedure that contributes to or results in an irremediable alteration of the oral anatomy.

Subchapter 6. Renewals, Continuing Education, and Fees

§ 661. RENEWAL OF LICENSE

(a) Licenses and registrations shall be renewed every two years on a schedule determined by the office of professional regulation.

(b) No continuing education reporting is required at the first biennial license renewal date following licensure.

(c) The board may waive continuing education requirements for licensees who are on active duty in the armed forces of the United States.

(d) Dentists.

(1) To renew a license, a dentist shall meet active practice requirements established by the board by rule and document completion of no fewer than 30 hours of board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

(2) Any dentist who has not been in active practice for a period of five years or more shall be required to meet the renewal requirements established by the board by rule.

(e) Dental hygienists. To renew a license, a dental hygienist shall meet active practice requirements established by the board by rule and document completion of no fewer than 18 hours of board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

(f) Dental assistants. To renew a registration, a dental assistant shall meet the requirements established by the board by rule.

§ 662. FEES

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

(1) Application

(A) Dentist \$ 225.00

(B) Dental hygienist \$ 150.00

(C) Dental assistant \$ 60.00

(2) Biennial renewal

(A) Dentist \$ 355.00

(B) Dental hygienist \$ 125.00

(C) Dental assistant \$ 75.00

(b) The licensing fee for a dentist or dental hygienist or the registration fee for a dental assistant who is otherwise eligible for licensure or registration and whose practice in this state will be limited to providing pro bono services at a

free or reduced-fee clinic or similar setting approved by the board shall be waived.

§ 663. LAPSED LICENSES OR REGISTRATIONS

(a) Failure to renew a license by the renewal date shall result in a lapsed license subject to late renewal penalties pursuant to 3 V.S.A. § 125(a)(1).

(b) A person whose license or registration has lapsed may not practice and may be subject to disciplinary action.

(c) Notwithstanding the provisions of subsection (a) of this section, a person shall not be required to pay renewal fees or late renewal penalties for years spent on active duty in the armed forces of the United States. A person who returns from active duty shall be required to pay only the most current biennial renewal fee.

* * * Nursing * * *

Sec. 12. 26 V.S.A. § 1591 is amended to read:

§ 1591. REGISTRY

The board of nursing shall establish, implement, and maintain a registry of nursing assistants and medication nursing assistants.

Sec. 13. 26 V.S.A. § 1592 is amended to read:

§ 1592. DEFINITIONS

As used in this subchapter:

(1) "Nursing assistant" means an individual, regardless of title, who performs nursing or nursing related functions under the supervision of a licensed nurse.

(2) "Nursing and nursing related functions" means nursing related activities as defined by rule which include basic nursing and restorative duties for which the nursing assistant is prepared by education and supervised practice.

(3) "Medication nursing assistant" means a licensed nursing assistant holding a currently valid endorsement authorizing the delegation to the nursing assistant of tasks of medication administration performed in a nursing home.

Sec. 14. 26 V.S.A. § 1592a is added to read:

§ 1592a. ENDORSEMENT OF MEDICATION ADMINISTRATION FOR LICENSED NURSING ASSISTANTS

(a) The board may issue an endorsement of medication administration to a current licensed nursing assistant who:

(1) has participated in and completed a board-approved medication administration education and competency evaluation program;

(2) has passed an examination approved by the board; and

(3) has paid the application fee.

(b) The endorsement shall be renewed by the medication nursing assistant according to a schedule established by the board and pursuant to any other requirements as the board may establish by rule.

Sec. 15. 26 V.S.A. § 1595 is amended to read:

§ 1595. ~~GROUND FOR DISCIPLINE~~ REGULATORY AUTHORITY;
UNPROFESSIONAL CONDUCT

The board may deny an application for licensure or renewal or revoke, suspend, discipline, or otherwise condition the license of a nursing assistant who engages in the following conduct or the conduct set forth in ~~section 129a~~ of Title 3 V.S.A. § 129a:

(1) has been convicted of a crime that evinces an unfitness to act as a nursing assistant; ~~or~~

(2) has been disciplined as a registered or licensed practical nurse or nursing assistant by competent authority in any jurisdiction; ~~or~~

(3) has been fraudulent or deceitful in procuring or attempting to procure a license, in filing or completing patient records, in signing reports or records or in submitting any information or records to the board; ~~or~~

(4) has abused or neglected a patient or misappropriated patient property; ~~or~~

(5) is unfit or incompetent to function as a nursing assistant by reason of any cause; ~~or~~

(6) has diverted or attempted to divert drugs for unauthorized use; ~~or~~

(7) is habitually intemperate or is addicted to the use of habit-forming substances; or

(8) has failed to report to the board any violation of this chapter or of the board's rules; ~~or~~

~~(9) has engaged in any act which before it was committed had been determined to be beyond the approved scope of practice of the nursing assistant.~~

Sec. 16. 26 V.S.A. § 1596 is amended to read:

§ 1596. APPROVAL OF PROGRAMS

(a) The board shall adopt standards for nursing assistant and medication nursing assistant education and competency evaluation programs and shall survey and approve those programs which meet the standards.

(b) After an opportunity for a hearing, the board may deny or withdraw approval or take lesser action when a program fails to meet the standards.

(c) A program whose approval has been denied or withdrawn may be reinstated upon satisfying the board that deficiencies have been remedied and the standards have been met.

Sec. 17. 26 V.S.A. § 1601 is amended to read:

§ 1601. EXEMPTIONS

* * *

(d) Nothing in this subchapter shall be construed to conflict with the administration of medication by nonlicensees pursuant to the residential care home licensing regulations promulgated by the department of disabilities, aging, and independent living.

Sec. 18. 26 V.S.A. § 1612 is amended to read:

§ 1612. PRACTICE GUIDELINES

(a) APRN licensees shall submit for review individual practice guidelines and receive board approval of the practice guidelines. Practice guidelines shall reflect current standards of advanced nursing practice specific to the APRN's role, population focus, and specialty.

(b) Licensees shall submit for review individual practice guidelines and receive board approval of the practice guidelines:

(1) prior to initial employment;

(2) if employed, upon application for renewal of an APRN's registered nurse license; and

(3) prior to a change in the APRN's employment or clinical role, population focus, or specialty.

Sec. 18a. Sec. 41 of No. 35 of the Acts of 2009 is amended to read:

Sec. 41. REPEAL

* * *

(c) ~~Sec. 26a~~ Sec. 26 (nursing education programs; faculty; educational experience) of this act shall be repealed on July 1, 2013.

* * * Optometry * * *

Sec. 19. 26 V.S.A. § 1703 is amended to read:

§ 1703. DEFINITIONS

As used in this chapter:

* * *

(5) “Contact lenses” means those lenses ~~with prescription power and those lenses without prescription power which~~ that are worn for cosmetic, therapeutic, or refractive purposes.

Sec. 20. 26 V.S.A. § 1719 is amended to read:

§ 1719. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a, whether or not taken by a license holder.

(b) Unprofessional conduct means:

* * *

(3) Any of the following with regard to the buyer’s prescription or purchase of ophthalmic goods:

(A) ~~Failure to give to the buyer a copy of the buyer’s spectacle lens prescription immediately after the eye examination is completed. Provided, an optometrist may refuse to give the buyer a copy of the buyer’s prescription until the buyer has paid for the eye examination but only if that optometrist would have required immediate payment from that buyer had the examination revealed that no ophthalmic goods were required. If the buyer requests his or her contact lens prescription before the prescription is complete, the optometrist shall furnish a copy of the buyer’s contact lens prescription to the buyer, clearly marked to indicate that it is not a complete contact lens prescription. [Repealed.]~~

* * *

(E) Failure to comply with prescription-released requirements established in the Federal Ophthalmic Practice Rule (~~CFR~~ 16 C.F.R. Part 456)

or the Fairness to Contact Lens Consumers Act (~~USCA~~ 15 U.S.C.A. §§ 7601–7610).

(c) After hearing, the board may take disciplinary action against a licensee or applicant found guilty of unprofessional conduct.

Sec. 21. 26 V.S.A. § 1727 is amended to read:

§ 1727. EXPIRATION DATE

An optometrist shall state the expiration date on the face of every prescription written by that optometrist for contact lenses. The expiration date shall be ~~no earlier than~~ one year after the examination date unless a medical or refractive problem affecting vision requires an earlier expiration date. An optometrist may not refuse to give the buyer a copy of the buyer's prescription after the expiration date; however, the copy shall be clearly marked to indicate that it is an expired prescription.

Sec. 22. 26 V.S.A. § 1728d is redesignated to read:

§ 1728d. DURATION OF GLAUCOMA TREATMENT WITHOUT REFERRAL

Sec. 23. 26 V.S.A. § 1729a is amended to read:

§ 1729a. PREREQUISITES TO TREATING GLAUCOMA

A licensee who is already certified to use therapeutic pharmaceutical agents and who graduated from a school of optometry prior to 2003 and is not certified in another jurisdiction having substantially similar prerequisites to treating glaucoma shall, in addition to being certified to use therapeutic pharmaceutical agents, provide to the board verification of successful completion of an 18-hour course and examination offered by the State University of New York State College of Optometry or similar accredited institution. Successful completion shall include passing an examination substantially equivalent to the relevant portions on glaucoma and orals of the examination given to current graduates of optometry school and shall require the same passing grade. The course shall cover the diagnosis and treatment of glaucoma and the use of oral medications and shall be taught by both optometrists and ophthalmologists. In addition, the licensee shall collaborate with an optometrist who has been licensed to treat glaucoma for at least two years or an ophthalmologist regarding his or her current glaucoma patients for six months and at least five new glaucoma patients before treating glaucoma patients independently. These five new glaucoma patients shall be seen at least once by the collaborating glaucoma-licensed optometrist or ophthalmologist.

* * * Pharmacy * * *

Sec. 24. 26 V.S.A. § 2044 is amended to read:

§ 2044. RENEWAL OF LICENSES

Each ~~pharmacist and pharmacy technician~~ person or entity licensed or regulated under the provisions of this chapter shall apply for renewal biennially by a date established by the director of the office of professional regulation. ~~The board shall renew the license or registration of each pharmacist and pharmacy technician who is qualified.~~

* * * Veterinary * * *

Sec. 25. 26 V.S.A. § 2414 is amended to read:

§ 2414. FEES

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

(1) Application	\$ 100.00
(2) Biennial renewal	\$ 250.00
(3) Temporary license	~~\$ 25.00~~

* * * Land Surveying * * *

Sec. 26. 26 V.S.A. § 2543 is amended to read:

§ 2543. BOARD MEETINGS

(a) The board shall meet, at least two times each year, at the call of the chairperson or upon the request of any other two members.

(b) ~~Meetings shall be warned and conducted in accordance with chapter 5 of Title 4. [Repealed.]~~

(c) A majority of the members of the board shall be a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting.

(d) The provisions of the Vermont Administrative Procedure Act, 3 V.S.A. chapter 25, relating to contested cases, shall apply to proceedings under this chapter.

(e) Fees for the service of process and attendance before the board shall be the same as the fees paid sheriffs and witnesses in superior court.

Sec. 27. 26 V.S.A. § 2592 is amended to read:

§ 2592. QUALIFICATIONS LICENSURE BY EXAMINATION

(a) Any person shall be eligible for licensure as a land surveyor if the person qualifies under one of the following provisions, as established by the board by rule:

(1) ~~Comity or endorsement.~~ A person holding a certificate of registration or a license to engage in the practice of land surveying issued on the basis of an examination, satisfactory to the board, by proper authority of a state, territory or possession of the United States, the District of Columbia, or another country, based on requirements and qualifications shown by the application to be equal to or greater than the requirements of this chapter, in the opinion of the board, may be examined relative to land surveying matters peculiar to Vermont and granted a license at the direction of the board Bachelor's degree in land surveying, internship, portfolio, and examination. A person who has graduated with a bachelor's degree in land surveying from a program accredited by the Accreditation Board for Engineering and Technology (ABET), completed a 24-month internship, successfully completed a portfolio, and successfully completed the examinations required by the board may be granted a license.

(2) ~~Graduation and examination.~~ An applicant who has graduated from a surveying curriculum of four years or more approved by the Accreditation Board for Engineering and Technology (ABET), followed by at least 24 months of experience in land surveying, under the supervision of a land surveyor, and who has passed an examination satisfactory to the board, may be granted a license Associate's degree in land surveying, internship, portfolio, and examination. A person who has received an associate's degree in land surveying, completed a 36-month internship, successfully completed a portfolio, and successfully completed the examinations required by the board may be granted a license.

(3) ~~Education and examination.~~ An applicant, who has attended an accredited college or school of higher education, approved by the board, who has satisfactorily completed 30 credit hours of formal instruction in land surveying, followed by at least 36 months of experience in land surveying, under the supervision of a land surveyor, and who has passed an examination satisfactory to the board, may be granted a license.

(4) ~~Experience~~ Internship, portfolio, and examination examinations. An applicant who has completed four or more years of experience in land surveying, under the supervision of a land surveyor, and who has a 72-month internship, successfully completed a portfolio, and passed an examination which is satisfactory to the examinations required by the board, may be granted a license.

~~(b) The fundamentals of land surveying examination may be taken with board approval after an applicant for licensure submits the initial application.~~

~~(c) The principles and practice of land surveying examination may be taken before the applicant completes the educational and experience requirements established by this chapter, provided that the applicant has completed all but the final year of required practical experience. Notification of the results of such examinations shall be mailed to each candidate within 30 days of the day the results of any national examination are received by the board. A candidate failing to pass the examinations may apply for reexamination under the rules of the board and may sit for reexamination as many times as the candidate chooses to do so. If an applicant does not pass the entire examination, the applicant need not take again any portion of an examination which the applicant previously passed.~~

~~(d)(1) A person who has undertaken work in the office of a land surveyor shall notify the board:~~

~~(A) within six months of commencing work;~~

~~(B) within 30 days of making any change in the person supervising that work; and~~

~~(C) upon 30 days of completing the experience requirements for licensure.~~

~~(e) [Deleted.]~~

~~(f) License examinations may consist of a national surveying examination selected by the board plus a Vermont portion. The Vermont portion shall be limited to those subjects and skills necessary to perform land surveying.~~

~~(g) The board may conduct a personal interview of an applicant. A personal interview shall be for the limited purposes of assisting the applicant to obtain licensure and to verify the applicant's educational qualifications and that the applicant completed the experience requirements for licensure. A personal interview shall not serve directly or indirectly as an oral examination of the applicant's substantive knowledge of surveying. An interview conducted under this section shall be taped and, at the request of the applicant, shall be transcribed. An applicant who is denied licensure shall be informed in writing of his or her right to have the interview transcribed free of charge. At least one of the public members of the board shall be present at any personal interview.~~

~~(h) When the board intends to deny an application for license, the director of the office of professional regulation shall send the applicant written notice of the decision by certified mail, return receipt requested. The notice shall~~

~~include a specific statement of the reasons for the action. Within 30 days of the date that an applicant receives such notice, the applicant may file a petition with the board for review of its preliminary decision. At the hearing to review the preliminary decision, the burden shall be on the applicant to show that a license should be issued. After the hearing, the board shall affirm or reverse the preliminary denial. The applicant may appeal a final denial by the board to the appellate officer.~~

Sec. 28. 26 V.S.A. § 2592a is added to read:

§ 2592a. LICENSURE BY ENDORSEMENT

Upon an applicant's successful completion of the Vermont portion of the licensing examination, the board may issue a license to an applicant who is licensed or registered and currently in good standing in a United States or Canadian jurisdiction having licensing requirements which are substantially equivalent to the requirements of this chapter. The absence of a portfolio requirement in another jurisdiction shall not prevent the board from finding substantial equivalence.

Sec. 29. REPEAL

26 V.S.A. § 2594 (licenses generally) is repealed.

Sec. 30. 26 V.S.A. § 2595 is amended to read:

§ 2595. EXCEPTIONS

(a) The work of an employee or subordinate of a person having a license under this chapter is exempted from the licensing provisions of this chapter if such work is done under the supervision of and is verified by a licensee.

* * *

Sec. 31. 26 V.S.A. § 2598 is amended to read:

§ 2598. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a.

(b) Unprofessional conduct includes the following actions by a licensee:

* * *

~~(4) agreeing with any other person or organization, or subscribing to any code of ethics or organizational bylaws, when the intent or primary effect of that agreement, code or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the board;~~
[Repealed.]

(5) ~~wilfully~~ willfully acting, while serving as a board member, in any way to contravene the provisions of this chapter and thereby artificially restrict the entry of qualified persons into the profession;

(6) using the licensee's seal on documents prepared by others not in the licensee's direct ~~employ~~ supervision, or use the seal of another.

(7) ~~[Deleted.]~~

Sec. 32. REPEAL

26 V.S.A. § 2599 (discipline of licensees) is repealed.

Sec. 33. 26 V.S.A. § 2601 is amended to read:

§ 2601. RENEWALS

(a) Licenses shall be renewed every two years upon payment of the renewal fee following the procedure established by the office of professional regulation.

(b) ~~Biennially, the board shall forward a renewal form to each licensee. Upon receipt of the completed form and the renewal fee, the board shall issue a new license. [Repealed.]~~

(c) A license which has lapsed for a period of three years or less may be renewed upon application and payment of the renewal fee and the late penalty fee.

(d) As a condition of renewal, the board shall require that a licensee establish that he or she has completed continuing education, as approved by the board not to exceed 15 hours for each year of renewal.

(e) The board may renew the license of an individual whose license has lapsed for more than three years upon payment of the required fee, and the late renewal penalty, provided the individual has satisfied all the requirements for renewal, ~~including continuing education established by the board by rule.~~

* * * Radiologic Technology * * *

Sec. 34. 26 V.S.A. § 2801 is amended to read:

§ 2801. DEFINITIONS

As used in this chapter:

* * *

(3) "Practice of radiography" means the direct application of ionizing radiation to human beings ~~for diagnostic purposes.~~

(4) “Practice of nuclear medicine technology” means the act of giving a radioactive substance to a human being ~~for diagnostic purposes~~, or the act of performing associated imaging procedures, or both.

(5) “Practice of radiation therapy” means the direct application of ionizing radiation to human beings for therapeutic purposes or the act of performing associated imaging procedures, or both.

* * *

(11) “ARRT” means the American Registry of Radiologic Technologists.

(12) “NMTCB” means the Nuclear Medicine Technologist Certification Board.

Sec. 35. 26 V.S.A. § 2802 is amended to read:

§ 2802. PROHIBITIONS

(a) ~~For purposes of this section, the word “license” includes temporary permits under section 2825 of this title. [Repealed.]~~

(b) No person shall practice radiologic technology unless he or she is licensed in accordance with the provisions of this chapter.

(c) No person shall practice radiography without a license for radiography from the board unless exempt under section 2803 of this title.

(d) ~~No person who holds a limited radiography license from the board shall apply ionizing radiation to human beings for diagnostic or therapeutic purposes or take radiographs, except as follows:~~

~~(1) A person who holds an endorsement for chest radiography may radiograph the thorax for the purpose of demonstrating the heart or lungs; and~~

~~(2) A person who holds an endorsement for extremities radiography may radiograph the hands and arms, including the shoulder girdle, the feet, and the legs up to the mid-point of the femur. [Repealed.]~~

(e) No person shall practice nuclear medicine technology without a license for that purpose from the board unless exempt under section 2803 of this title.

(f) No person shall practice radiation therapy technology without a license for that purpose from the board unless exempt under section 2803 of this title.

Sec. 36. 26 V.S.A. § 2803 is amended to read:

§ 2803. EXEMPTIONS

The prohibitions in section 2802 of this title shall not apply to dentists licensed under chapter 13 of this title and actions within their scope of practice nor to:

* * *

(6) ~~Individuals who are completing a course of training for limited radiographic licensure as required in subsection 2821(c) of this title and who work under direct personal supervision of a licensed practitioner. The exemption authorized by this subdivision shall be for one time only and for no more than six months. The licensed practitioner is professionally and legally responsible for work performed by the person completing the course of training~~ Licensees certified in one of the three primary modalities set forth in section 2821a of this chapter preparing for postprimary certification in accordance with ARRT or NMTCB under the direct personal supervision of a licensee already certified in the specific postprimary modality at issue.

Sec. 37. 26 V.S.A. § 2804 is amended to read:

§ 2804. COMPETENCY REQUIREMENTS OF CERTAIN LICENSED PRACTITIONERS

Unless the requirements of subdivision 2803(1) of this title have been satisfied, no physician, as defined in chapter 23 of this title, podiatrist, as defined in chapter 7 of this title, osteopathic physician, as defined in chapter 33 of this title, naturopathic physician as defined in chapter 81 of this title, or chiropractor, as defined in chapter 9 10 of this title, shall apply ionizing radiation to human beings ~~for diagnostic purposes~~, without first having satisfied the board of his or her competency to do so. The board shall consult with the appropriate licensing boards concerning suitable performance standards. The board shall, by rule, provide for periodic recertification of competency. A person subject to the provisions of this section shall be subject to the fees established under subdivisions 2814(4) and (5) of this title. This section does not apply to radiologists who are certified or eligible for certification by the American Board of Radiology.

Sec. 38. 26 V.S.A. § 2811 is amended to read:

§ 2811. BOARD OF RADIOLOGIC TECHNOLOGY

(a) A board of radiologic technology is created, consisting of ~~five~~ six members. The board shall be attached to the office of professional regulation.

(b) One member of the board shall be a member of the public who has no financial interest in radiologic technology other than as a consumer or possible consumer of its services. The public member shall have no financial interest personally or through a spouse.

(c) One member of the board shall be a radiologist certified by the American Board of Radiology.

(d) ~~Two~~ Three members of the board shall be licensed under this chapter, one representing each of the three following primary modalities: radiography; nuclear medicine technology; and radiation therapy.

(e) One member of the board shall be a representative from the radiological health program of the Vermont department of health.

(f) Board members shall be appointed by the governor.

Sec. 39. 26 V.S.A. § 2812 is amended to read:

§ 2812. POWERS AND DUTIES

(a) The board shall adopt rules necessary for the performance of its duties, including:

(1) a definition of the practice of radiologic technology, interpreting section 2801 of this title;

(2) qualifications for obtaining licensure, interpreting section 2821 of this ~~title~~ chapter;

(3) explanations of appeal and other significant rights given to applicants and the public;

(4) procedures for disciplinary and reinstatement cases;

(5) ~~procedures for certifying persons using special equipment;~~
[Repealed.]

(6) procedures for mandatory reporting of unsafe radiologic conditions or practices;

(7) procedures for continued competency evaluation;

(8) procedures for radiation safety;

(9) procedures for competency standards for license applications and renewals.

(b) The board shall:

(1) ~~If applications for licensure by examination are pending, offer examinations at least twice each year and pass upon the qualifications of applicants for licensing. [Repealed.]~~

(2) Use the administrative and legal services provided by the office of professional regulation under 3 V.S.A. chapter 5.

(3) Investigate suspected unprofessional conduct.

(4) Periodically determine whether a sufficient supply of good quality radiologic technology services is available in Vermont at a competitive and reasonable price; and take suitable action, within the scope of its powers, to solve or bring public and professional attention to any problem which it finds in this area.

(5) As a condition of renewal require that a licensee establish that he or she has completed a minimum of 24 hours of continuing education as approved by the board ~~not to exceed 24 hours in a two-year renewal.~~

* * *

Sec. 40. 26 V.S.A. § 2814 is amended to read:

§ 2814. FEES

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

- (1) Application for ~~temporary permit and~~ primary licensure \$ 100.00
- (2) Biennial renewal
 - (A) renewal of a single primary license \$ 110.00
 - (B) renewal of each additional primary license \$ 15.00
- (3) Initial competency endorsement under section 2804 of this title \$ 100.00
- (4) Biennial renewal of competency endorsement under section 2804 of this title \$ 110.00
- (5) Evaluation \$ 125.00

Sec. 41. REPEAL

26 V.S.A. § 2821 (licensing) is repealed.

Sec. 42. TRANSITIONAL PROVISION

A person granted a limited radiography license by the board of radiologic technology under 26 V.S.A. § 2821 prior to the effective date of this act may continue to practice as permitted by that license and board rules.

Sec. 43. 26 V.S.A. § 2821a is added to read:

§ 2821a. LICENSE FOR PRIMARY MODALITIES

Common Requirements. The board shall recognize and follow the ARRT and the NMTCB primary certification process. The board shall issue a license to practice in one of the following three primary modalities to any person who in addition to the other requirements of this section, has reached the age of majority and has completed preliminary education equivalent to at least four years of high school:

(1) Radiography. The board shall issue a radiography license to any person who, in addition to meeting the general requirements of this section:

(A) has graduated from a radiologic technology training program offered by a school of radiologic technology approved by ARRT; and

(B) has obtained primary certification in radiography from ARRT.

(2) Nuclear medicine technology. The board shall issue a nuclear medicine technology license to any person who, in addition to meeting the general requirements of this section:

(A) has graduated from a nuclear medicine technology program offered by a school of nuclear medicine technology approved by ARRT or NMTCB; and

(B) has obtained primary certification in nuclear medicine technology from ARRT or NMTCB.

(3) Radiation therapy. The board shall issue a radiation therapy license to any person who, in addition to meeting the general requirements of this section:

(A) has graduated from a radiation therapy training program offered by a school of radiologic technology approved by ARRT; and

(B) has obtained primary certification in radiation therapy from the ARRT.

Sec. 44. 26 V.S.A. § 2821b is added to read:

§ 2821b. LICENSE FOR POSTPRIMARY MODALITIES

(a) The board recognizes and follows the ARRT postprimary certification process for the following postprimary practice categories: mammography, computed tomography ("CT"), cardiac-interventional radiography, and vascular-interventional radiography.

(b) In order for a licensee who has obtained one of the three primary ARRT or NMTCB certifications set forth in section 2821a of this subchapter to practice in one of the postprimary modalities set forth in subsection (a) of this section, the licensee must first obtain postprimary certification from ARRT for that category, except:

(1) a person with a primary license in radiation therapy may perform CT for treatment simulation; and

(2) a person with a primary license in nuclear medicine technology may perform CT for attenuation correction on hybrid imaging equipment, such as PET/CT and SPECT/CT scanners.

(c) In order to practice bone densitometry or apply ionizing radiation using bone densitometry equipment, a primary certification and license in radiography is required, with the exception that individuals who perform quantitative computed tomography ("QCT") bone densitometry must obtain postprimary certification in CT in addition to primary certification.

Sec. 45. 26 V.S.A. § 2823 is amended to read:

§ 2823. RENEWAL AND PROCEDURE FOR NONRENEWAL

~~(a) Licenses shall be renewed every two years without examination and on payment of the required fees~~ Each radiographer, nuclear medicine technologist, and radiation therapist licensed to practice by the board shall apply biennially for the renewal of a license. One month prior to the renewal date, the office of professional regulation shall send to each of those licensees a license renewal application form and a notice of the date on which the existing license will expire. The licensee shall file the application for license renewal and pay a renewal fee. In order to be eligible for renewal, an applicant shall document completion of no fewer than 24 hours of board-approved continuing education. Required accumulation of continuing education hours shall begin on the first day of the first full biennial licensing period following initial licensure.

~~(b) A license which has expired because a licensee has not sought renewal may be reinstated on payment of a renewal fee and a late renewal penalty. The licensee shall not be required to pay renewal fees during periods when the license was expired. However, if such a license remains expired for a period of ten years, the board shall send notice under this section to the former licensee at his last known address. Thirty days after the notice is sent, the right to renew the license without examination is suspended. Once the right to~~

~~renew is suspended, it may be reinstated only by decision of the board acting on petition of the former licensee. During that proceeding, the board may require re-examination of the licensee, as well as payment of a renewal fee, late renewal penalty and a reinstatement fee~~ A person who practices radiography, nuclear medicine technology, or radiation therapy and who fails to renew a license or registration or fails to pay the fees required by this chapter shall be an illegal practitioner and shall forfeit the right to practice until reinstated by the board.

(c) The board shall adopt rules setting forth qualifications for reinstating lapsed licenses.

Sec. 46. REPEAL

26 V.S.A. § 2825 (temporary permits) is repealed.

Sec. 47. 26 V.S.A. § 2825a is added to read:

§ 2825a. LICENSURE BY ENDORSEMENT

The board may grant a license to an applicant who possesses a license in good standing in another state and possesses the applicable ARRT or NMTCB primary and postprimary certifications as set forth in sections 2821a and 2821b of this subchapter, respectively.

* * * Psychology * * *

Sec. 48. 26 V.S.A. § 3011a is amended to read:

§ 3011a. APPLICATIONS

(a) Any person desiring to obtain a license as a psychologist shall make application therefore to the board upon such form and in such manner as the board prescribes and shall furnish evidence satisfactory to the board that he or she:

(1) is at least 18 years of age;

(2)(A) ~~has had two years of experience, or their equivalent, in the practice of clinical psychology under the supervision of a person who is licensed or who is qualified to be licensed under this chapter; possesses a doctoral degree in psychology and has completed 4,000 hours of supervised practice as defined by the board by rule, of which no fewer than 2,000 hours were completed after the doctoral degree in psychology was received; or~~

(3) ~~has successfully completed each examination that is required pursuant to section 3013 of this title; and~~

~~(A) possesses a doctoral degree in psychology obtained through a professional psychology training program awarded by an institution of higher education;~~

~~(B) possesses a master's degree in psychology obtained through a professional psychology training program awarded by an institution of higher education; and has completed 4,000 hours of supervised practice as defined by the board by rule of which no fewer than 2,000 hours were completed after the master's degree in psychology was received; and~~

~~(C) possesses a master's degree in psychology awarded by an institution of higher education provided the person was enrolled as a candidate for the master's degree no later than December 31, 1993; or~~

~~(D) possesses a degree in psychology awarded by an institution of higher education based on a program that the board determines to be equivalent to that required in subdivisions (A) and (B) of this subdivision (3)~~

(3) has successfully completed the examinations designated by the board.

(b) In exceptional cases, the board may waive any requirement of this section if in its judgment the applicant demonstrates appropriate qualifications.

* * * Clinical Social Work * * *

Sec. 49. 26 V.S.A. § 3201 is amended to read:

§ 3201. DEFINITIONS

As used in this chapter:

(1) "Clinical social work" is defined as providing a service, for a consideration, which is primarily drawn from the academic discipline of social work theory, in which a special knowledge of social resources, human capabilities, and the part that motivation plays in determining behavior, is directed at helping people to achieve a more adequate, satisfying, and productive psychosocial adjustment. The application of social work principles and methods includes, but is not restricted to assessment, diagnosis, prevention and amelioration of adjustment problems and emotional and mental disorders of individuals, families and groups. The scope of practice for licensed clinical social workers includes the provision of psychotherapy.

* * *

Sec. 50. 26 V.S.A. § 3205 is amended to read:

§ 3205. ELIGIBILITY

To be eligible for licensing as a clinical social worker an applicant must have:

(1) received a master's degree or doctorate from an accredited social work education program;

(2) [Deleted.]

(3) ~~had two years of post-master's experience in the practice of clinical social work or the equivalent in part-time experience~~ completed 3,000 hours of supervised practice of clinical social work as defined by rule under the supervision of a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed or certified in another state or Canada in one of these professions or their substantial equivalent. Persons engaged in post masters supervised practice in Vermont shall be entered on the roster of nonlicensed, noncertified psychotherapists;

(4) submitted the names and addresses of three persons who can attest to the applicant's professional competence. Such person shall be a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed in another state or Canada in one of these professions; and

(5) passed an examination to the satisfaction of the director of the office of professional regulation.

* * * Dietetics * * *

Sec. 51. 26 V.S.A. § 3381 is amended to read:

§ 3381. DEFINITIONS

As used in this chapter:

(1) ~~"American Dietetic Association~~ Academy of Dietetics and Nutrition" means the national professional organization of dietitians that provides direction and leadership for quality dietetic practice, education and research.

* * *

Sec. 52. 26 V.S.A. § 3385 is amended to read:

§ 3385. ELIGIBILITY

To be eligible for certification as a dietitian, an applicant:

(1) shall not be in violation of any of the provisions of this chapter or rule adopted in accordance with the provisions of the chapter; and

(2)(A) shall have proof of registration as a registered dietitian by the Commission on Dietetic Registration; or

(B) shall have:

(i) received a bachelor of arts or science or a higher degree in dietetics from an accredited college or university; and

(ii) satisfactorily completed a minimum of 900 practicum hours of supervision under an ~~American Dietetic Association~~ Academy of Dietetics and Nutrition dietitian registered by the Commission on Dietetic Registration; and

(iii) passed an examination to the satisfaction of the director.

* * * Naturopathic Medicine * * *

Sec. 53. 26 V.S.A. § 4121 is amended to read:

§ 4121. DEFINITIONS

As used in this chapter:

* * *

(7) ~~“Naturopathic formulary examination” means an examination, administered by the director or the director’s designee, which tests an applicant’s knowledge of the pharmacology, clinical use, side effects, and drug interactions of agents in the naturopathic formulary. [Repealed.]~~

(8) “Naturopathic medicine” or “the practice of naturopathic medicine” means a system of health care that utilizes education, natural medicines, and natural therapies to support and stimulate a patient’s intrinsic self-healing processes and to prevent, diagnose, and treat human health conditions, injuries, and pain. In connection with such system of health care, an individual licensed under this chapter may:

(A) Administer or provide for preventative and therapeutic purposes nonprescription medicines, topical medicines, botanical medicines, homeopathic medicines, counseling, hypnotherapy, nutritional and dietary therapy, naturopathic physical medicine, naturopathic childbirth, therapeutic devices, barrier devices for contraception, and prescription medicines authorized by this chapter ~~or by the formulary established under subsection 4125(c) of this title.~~

(B) Use diagnostic procedures commonly used by physicians in general practice, including physical and orificial examinations,

electrocardiograms, diagnostic imaging techniques, phlebotomy, clinical laboratory tests and examinations, and physiological function tests.

* * *

(13) “Naturopathic pharmacology examination” means a test administered by the director or the director’s designee, the passage of which is required to obtain the special license endorsement under subsection 4125(d) of this chapter.

Sec. 54. 26 V.S.A. § 4122 is amended to read:

§ 4122. PROHIBITIONS AND PENALTIES

(a) No person shall perform any of the following acts:

(1) Practice naturopathic medicine in this state without a valid license issued in accordance with this chapter except as provided in section 4123 of this title.

(2) Use, in connection with the person’s name any letters, words, or insignia indicating or implying that the person is a naturopathic physician unless the person is licensed in accordance with this chapter. A person licensed under this chapter may use the designations “N.D.,” “doctor of naturopathic medicine,” “naturopathic doctor,” “doctor of naturopathy,” or “naturopathic physician.”

(b) A person licensed under this chapter shall not perform any of the following acts:

(1) Prescribe, dispense, or administer any prescription medicines ~~except those medicines authorized by this chapter~~ without obtaining from the director the special license endorsement under subsection 4125(d) of this chapter.

(2) Perform surgical procedures, except for episiotomy and perineal repair associated with naturopathic childbirth.

(3) Use for therapeutic purposes, any device regulated by the United States Food and Drug Administration (FDA) that has not been approved by the FDA.

(4) Perform naturopathic childbirth without obtaining ~~an endorsement from the director~~ the special license endorsement under subsection 4125(b) of this chapter.

(c) A person who violates any of the provisions of this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).

Sec. 55. 26 V.S.A. § 4123 is amended to read:

§ 4123. EXEMPTIONS

(a) Nothing in this chapter shall be construed to prohibit any of the following:

(1) The practice of a profession by a person who is licensed, certified, or registered under other laws of this state and is performing services within the authorized scope of practice of that profession.

(2) The practice of naturopathic medicine by a person duly licensed to engage in the practice of naturopathic medicine in another state, territory, or the District of Columbia who is called into this state for consultation with a naturopathic physician licensed under this chapter.

(3) The practice of naturopathic medicine by a student enrolled in an approved naturopathic medical college. The performance of services shall be pursuant to a course of instruction and under the supervision of an instructor, who shall be a naturopathic physician licensed in accordance with this chapter.

(4) The use or administration of over-the-counter medicines or other nonprescription agents, ~~regardless of whether the over-the-counter medicine or agent is on the naturopathic formulary.~~

(b) The provisions of subdivision 4122(a)(1) of this ~~title~~ chapter, relating to the practice of naturopathic medicine, shall not be construed to limit or restrict in any manner the right of a practitioner of another health care profession from carrying on in the usual manner any of the functions related to that profession.

Sec. 56. 26 V.S.A. § 4125 is amended to read:

§ 4125. DIRECTOR; DUTIES

(a) The director, with the advice of the advisor appointees, shall:

(1) Provide general information to applicants for licensure as naturopathic physicians.

(2) Administer fees collected under this chapter.

(3) Administer examinations.

(4) Explain appeal procedures to naturopathic physicians and applicants for licensure and complaint procedures to the public.

(5) Receive applications for licensure under this chapter; issue and renew licenses; and revoke, suspend, reinstate, or condition licenses as ordered by an administrative law officer.

(6) Refer all disciplinary matters to an administrative law officer.

(b) The director, with the advice of the advisor appointees, shall adopt rules necessary to perform the director's duties under this section, which shall include rules regulating ~~the naturopathic formulary, the naturopathic formulary~~

examination, and a special license endorsement to practice naturopathic childbirth.

~~(c) At least annually, in consultation with the commissioner of health and in accordance with consultation procedures adopted by the director by rule, the director with the advice of the advisor appointees, shall review and update the formulary of prescription medicines naturopathic physicians may use consistent with their scope of practice and training. Nonnatural substances found to be substantially safer in treatment or without which a patient's primary care would be compromised may be added to the formulary. The formulary shall include prescription medicines necessary for naturopathic practice and naturopathic childbirth. [Repealed.]~~

(d) The director, in consultation with the commissioner of health, shall adopt rules consistent with the commissioner's recommendations regulating a special license endorsement which shall authorize a naturopathic physician to prescribe, dispense, and administer prescription medicines. These rules shall require a naturopathic physician to pass a naturopathic pharmacology examination in order to obtain this special license endorsement. The naturopathic pharmacology examination shall be administered by the director or the director's designee and shall test an applicant's knowledge of the pharmacology, clinical use, side effects, and drug interactions of prescription medicines, including substances in the Vermont department of health's regulated drugs rule.

Sec. 57. 26 V.S.A. § 4127 is amended to read:

§ 4127. ELIGIBILITY FOR LICENSURE

To be eligible for licensure as a naturopathic physician, an applicant shall satisfy all the following:

(1) Have been granted a degree of doctor of naturopathic medicine, or a degree determined by the director to be essentially equivalent to such degree, from an approved naturopathic medical college.

(2) Be physically and mentally fit to practice naturopathic medicine.

(3) Pass a licensing examination approved by the director ~~pursuant to subsection 4129(a) of this title~~ by rule, unless the applicant is exempt from examination pursuant to ~~subsection 4129(b)~~ section 4129 of this title chapter.

(4) ~~Pass the naturopathic formulary examination administered by the director or the director's designee, unless the applicant is exempt from examination pursuant to the standards set forth in subsection 4129(b) of this title. [Repealed.]~~

Sec. 58. 26 V.S.A. § 4129 is amended to read:

§ 4129. WAIVER OF LICENSING EXAMINATION REQUIREMENT

~~(a) The director, or designee, shall administer the licensing examination to applicants at least twice each year if applications are pending. Examinations administered by the director and the procedures of administration shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted a license if they demonstrate that they possess minimal professional qualifications which are consistent with the public health, safety and welfare. The examination shall not be designed or implemented for the purpose of limiting the number of licenses issued.~~

(b) The director shall waive the examination requirement if the applicant is a naturopathic physician regulated under the laws of another jurisdiction who is in good standing to practice naturopathic medicine in that jurisdiction and, in the opinion of the director, the standards and qualifications required for regulation in that jurisdiction are at least equal to those required by this chapter.

Sec. 59. 26 V.S.A. § 4130 is amended to read:

§ 4130. BIENNIAL LICENSE RENEWAL; CONTINUING EDUCATION

(a) The license to practice naturopathic medicine shall be renewed every two years by filing a renewal application on a form provided by the director. The application shall be accompanied by the required fee and evidence of compliance with subsection (b) of this section. ~~The director may require licensees who have not previously passed the naturopathic physician formulary examination to pass the examination as a condition of license renewal.~~

(b) As a condition of renewal, a naturopathic physician shall complete a program of continuing education, approved by the director, during the preceding two years. The director shall not require more than 30 hours of continuing education biennially.

Sec. 60. TRANSITIONAL PROVISIONS

(a) Naturopathic pharmacology examination establishment. The naturopathic pharmacology examination set forth in 26 V.S.A. § 4125(d) shall be established and made available by July 1, 2013.

(b) Formulary authorization. Notwithstanding the provisions of 26 V.S.A. § 4122(b)(1) and except as provided in subsection (c) of this section, any naturopathic physician licensed under 26 V.S.A. chapter 81 who is authorized to prescribe, dispense, and administer any prescription medicines pursuant to the 2009 naturopathic physician formulary prior to the effective date of this act may continue to prescribe, dispense, and administer those medicines consistent

with his or her scope of practice and training and without obtaining from the director of the office of professional regulation the special license endorsement required under 26 V.S.A. § 4125(d).

(c) Formulary review. In consultation with the commissioner of health and with the advice of the advisor appointees appointed pursuant to 26 V.S.A. § 4126, the director may review and eliminate prescription medicines on the 2009 naturopathic physician formulary that authorized naturopathic physicians are permitted to prescribe, dispense, and administer.

(d) Formulary sunset; transition to examination.

(1) Subsection (b) of this section (formulary authorization) shall be repealed on July 1, 2015.

(2) Any naturopathic physician who is authorized to prescribe, dispense, and administer any prescription medicines under subsection (b) of this section shall have until July 1, 2015 to successfully complete the naturopathic pharmacology examination set forth in 26 V.S.A. § 4125(d) in order to be able to continue to prescribe, dispense, and administer any prescription medicines.

* * * Boxing * * *

Sec. 61. 31 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter:

(1) “Boxer” means an individual who participates in a boxing match.

(2) “Boxing match” or “match” means a contest or training exhibition for a prize or purse where an admission fee is charged and where individuals score points by striking the head and upper torso of an opponent with padded fists. ~~An amateur boxing match is a match held under the supervision of a school, college or university or under the supervision of United States Amateur Boxing, Inc. or its successor as the nationally designated governing body for amateur boxing. All other matches shall be considered professional boxing matches~~ Kickboxing, martial arts, and mixed martial arts, as defined in this section, shall be considered “matches” for the purposes of this chapter.

(3) “Director” means the director of the office of professional regulation.

(4) “Disciplinary action” includes any action by the administrative law officer appointed under ~~section 129 of Title 3 V.S.A. § 129~~, premised upon a finding of wrongdoing. It includes all sanctions of any kind, including denying, suspending, or revoking; a registration and issuing warnings ~~and other sanctions.~~

(5) “Kickboxing” means unarmed combat involving the use of striking techniques delivered with the upper and lower body and in which the competitors remain standing while striking;

(6) “Martial arts” means any form of unarmed combative sport or unarmed combative entertainment that allows contact striking, except boxing or wrestling;

(7) “Mixed martial arts” means unarmed combat involving the use of a combination of techniques from different disciplines of the martial arts, including grappling, submission holds, and strikes with the upper and lower body.

(8) “Manager” means a person who receives compensation for service as an agent or representative of a professional boxer.

~~(6)~~(9) “National boxer registry” means an entity certified by the Association of Boxing Commissions for the purpose of maintaining records for the identification of professional boxers and for tracking their records and suspensions.

~~(7)~~(10) “Participant” means managers, seconds, referees, and judges in a professional boxing match.

~~(8)~~(11) “Promoter” means a person that organizes, holds, advertises, or otherwise conducts a professional boxing match.

Sec. 62. 31 V.S.A. § 1102 is amended to read:

§ 1102. DIRECTOR; POWERS; DUTIES

(a) The director shall have jurisdiction over professional boxing matches. The director’s power to supervise professional boxing matches includes the power to suspend a match immediately if there is a serious and immediate danger to the public, boxers, promoters, or participants.

(b)(1) Except as provided in this subsection, the director shall not have jurisdiction over amateur boxing matches. Amateur boxing matches shall be conducted according to the rules of United States Amateur Boxing, Inc., the national governing body for amateur boxing of the United States Olympic Committee or its successor as the nationally-designated governing body for amateur boxing. However, upon a finding that the health and safety of the boxers and participants in an amateur match are not being sufficiently safeguarded, the director shall assume jurisdiction over and supervisory responsibility for the match. The director’s decision may be appealed to the administrative law officer appointed under ~~section 129 of Title 3 V.S.A. § 129~~ within 10 days of the date the finding is issued. If the director assumes

jurisdiction under this subsection, the match shall continue to be conducted in accordance with the rules of United States Amateur Boxing, Inc.

(2) For the purposes of this subsection, an “amateur boxing match” means a match held under the supervision of a school, college, or university or under the supervision of United States Amateur Boxing, Inc. or its successor as the nationally designated governing body for amateur boxing.

(c) The director shall:

- (1) provide information to applicants for registration;
- (2) administer fees collected under this chapter;
- (3) explain appeal procedures to registrants and applicants and complaint procedures to the public;
- (4) receive applications for registration, grant registration under this chapter, renew registrations and deny, revoke, suspend, reinstate, or condition registrations as directed by an administrative law officer;
- (5) refer all complaints and disciplinary matters to an administrative law officer appointed under ~~section 129 of Title 3~~ V.S.A. § 129.

(d) The director may adopt rules necessary to perform his or her duties under this chapter. The uniform rules of the Association of Boxing Commissions as adopted on June 6, 1998, and as amended from time to time, shall apply to professional boxing matches conducted under this chapter to the extent those rules address matters not covered by rules adopted by the director.

Sec. 63. EFFECTIVE DATES

This act shall take effect on July 1, 2012 except that:

(1) this section and Sec. 60(c) (transitional provision; formulary review) of this act shall take effect on passage; and

(2) Sec. 44, 26 V.S.A. § 2821b(b) (practice in postprimary modalities), of this act shall take effect on May 31, 2015.

The bill, having appeared on the Calendar one day for notice, was taken up, and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Government Operations? **Rep. Krebs of South hero** moved to amend the report of the committee on Government Operations as follows:

In Sec. 27, in 26 V.S.A. § 2592 in subdivision (a)(2), after “A person who has” by striking out “received an associate’s degree in land surveying” and inserting in lieu thereof “graduated with an associate’s degree in land surveying from a program accredited by the ABET”

Which was agreed to.

Thereupon, the report of the committee on Government Operations, as amended, was agreed to and third reading ordered.

Action on Bill Postponed

H. 600

House bill, entitled

An act relating to mandatory mediation in foreclosure proceedings

Was taken up and pending the reading of the report of the committee on Judiciary, on motion of **Rep. Turner of Milton**, action on the bill was postponed until the next legislative day.

Joint Resolution Amended; Third Reading Ordered

J.R.H. 27

Rep. Consejo of Sheldon, for the committee on Government Operations, to which had been referred Joint resolution, entitled

Joint resolution supporting the Vermont State Hospital employees

Reported in favor of its passage when amended as follows:

In the eighth Whereas clause by striking “working Vermonters legislative caucus is gravely” and inserting in lieu thereof “general assembly is”

The resolution, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Adjournment

At three o'clock and twenty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, March 15, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Glen Carter of the Jericho Congregational Church, Jericho, VT.

Message from the Senate No. 26

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 251. An act relating to miscellaneous amendments to laws pertaining to motor vehicles.

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

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 50. Joint resolution providing for a Joint Assembly to vote on the retention of three Superior Judges.

In the adoption of which the concurrence of the House is requested.

Committee Bill Introduced**H. 768**

Rep. Lippert of Hinesburg, for the committee on Judiciary, introduced a bill, entitled

An act relating to ignition interlock restricted driver's licenses and civil suspensions

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Committee Bill Introduced**H. 769**

Rep. Ancel of Calais, for the committee on Ways and Means, introduced a bill, entitled

An act relating to department of environmental conservation fees

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Committee Bill Introduced**H. 770**

Rep. Brennan of Colchester, for the committee on Transportation, introduced a bill, entitled

An act relating to the state's transportation program

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Senate Bill Referred

S. 251

Senate bill, entitled

An act relating to miscellaneous amendments to laws pertaining to motor vehicles;

To the committee on Transportation.

Joint Resolution Placed on Calendar

J.R.H. 30

Joint resolution authorizing 2012 Green Mountain Girls' State to conduct a civic education program at the State House

Offered by: Representative Acinapura of Brandon

Whereas, for many years, the Vermont American Legion Auxiliary has sponsored the annual Green Mountain Girls' State (Girls' State) civic education program, and

Whereas, Girls' State enables young women in high school to gain a first-hand experience and understanding of state government's procedures in all three branches of government, and

Whereas, a highlight of Girls' State is the day at the State House, featuring mock legislative committee meetings and chamber debate on proposed bills that focus on leading public policy issues, and students shadowing senior officials in the executive and judicial branches, and

Whereas, legislative staff have offered their professional support services, helping the students gain a better appreciation of Vermont's legislative process, and

Whereas, in 2012, Girls' State is scheduled to convene at the State House on June 20, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes Green Mountain Girls' State to use the House and Senate chambers, the legislative committee meeting rooms, and the governor's ceremonial office on Wednesday, June 20, 2012, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont American Legion Auxiliary.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Joint Resolution Placed on Calendar

J.R.H. 31

Joint resolution urging Congress to designate March 29 as Vietnam Veterans Day

Offered by: Representatives Canfield of Fair Haven, Acinapura of Brandon, Andrews of Rutland City, Atkins of Winooski, Batchelor of Derby, Bissonnette of Winooski, Bouchard of Colchester, Branagan of Georgia, Brennan of Colchester, Browning of Arlington, Burditt of West Rutland, Buxton of Tunbridge, Cheney of Norwich, Christie of Hartford, Clark of Vergennes, Clarkson of Woodstock, Consejo of Sheldon, Copeland-Hanzas of Bradford, Courcelle of Rutland City, Crawford of Burke, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Donahue of Northfield, Eckhardt of Chittenden, Edwards of Brattleboro, Ellis of Waterbury, Evans of Essex, Fagan of Rutland City, French of Shrewsbury, Haas of Rochester, Head of South Burlington, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell, Howrigan of Fairfield, Hubert of Milton, Jerman of Essex, Johnson of Canaan, Klein of East Montpelier, Koch of Barre Town, Komline of Dorset, Larocque of Barnet, Lawrence of Lyndon, Leriche of Hardwick, Lewis of Berlin, Lewis of Derby, Macaig of Williston, Malcolm of Pawlet, Marcotte of Coventry, McFaun of Barre Town, McNeil of Rutland Town, Moran of Wardsboro, Myers of Essex, Pearce of Richford, Peltz of Woodbury, Perley of Enosburgh, Poirier of Barre City, Potter of Clarendon, Reis of St. Johnsbury, Russell of Rutland City, Savage of Swanton, Shaw of Pittsford, Stevens of Shoreham, Strong of Albany, Sweaney of Windsor, Taylor of Barre City, Till of Jericho, Turner of Milton, Winters of Williamstown, Wright of Burlington and Yantachka of Charlotte

Whereas, on March 29, 1973, the last 2,500 United States troops were withdrawn from South Vietnam, ending American military involvement in what was the longest war in our country's history, and

Whereas, the President designated March 29, 1974 as Vietnam Veterans Day, and

Whereas, the 58,195 honorable and brave souls who fought and died during the Vietnam War, the many who remain missing in action, and all those who

have died since from the consequences of that war deserve the eternal gratitude and respect of our nation, and

Whereas, the men and women who served with dedication, honor, and pride during the Vietnam War era in Vietnam, elsewhere overseas, or in the United States merit special honor and recognition, and

Whereas, the families whose loved ones gave their lives for our country during the Vietnam War should always be in our thoughts, and

Whereas, many men and women came home from Vietnam with physical and emotional wounds, and their families are committed to a lifetime of care and support for their loved one, and these families should be honored, and

Whereas, the citizens who stood by and supported, without reservation, the families of the fallen as well as the Vietnam veterans who returned and their families all are worthy of praise, and

Whereas, the professionals and volunteers who committed themselves to the loving care and healing of the bodily and emotionally wounded from the Vietnam War are special individuals who deserve recognition, and

Whereas, allied personnel who served with dedication, honor, and pride alongside our nation's defenders during the Vietnam War deserve our respect and gratitude, and

Whereas, this expression of respect and gratitude for the service and sacrifice of Vietnam veterans and their families will give hope and assurance to current and future generations of our nation's defenders and their families that our nation will honor and remember their sacrifice, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to designate March 29 as Vietnam Veterans Day, and be it further

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

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Joint Resolution Adopted in Concurrence

J.R.S. 50

By Senator Nitka,

J.R.S. 50. Joint resolution providing for a Joint Assembly to vote on the retention of three Superior Judges.

Whereas, declarations have been submitted by the following three Superior Judges that they be retained for another six-year term, Judge Karen R. Carroll, Judge Dennis R. Pearson, Judge Barry Peterson, and

Whereas, the procedures of the Joint Committee on Judicial Retention require at least two public hearings and the review of information provided by each judge and the comments of members of the Vermont bar and the public, and

Whereas, the Committee was unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the judges seeking to be retained in office by March 8, 2012, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 15, 2012, the date specified in subsection 10(b) of Title 2, and

Whereas, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 29, 2012, at one o'clock in the afternoon to vote on the retention of three Superior Judges. In case the vote to retain said Justices and Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at nine o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Was taken up read and adopted in concurrence.

Rep. Leriche of Hardwick in Chair.

Bill Amended; Third Reading Ordered

H. 600

Rep. Koch of Barre Town, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to mandatory mediation in foreclosure proceedings

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. § 4631 is amended to read:

§ 4631. MEDIATION PROGRAM ESTABLISHED

* * *

(c) To be qualified to act as a mediator under this subchapter, an individual shall be licensed to practice law in the state and shall be required to have taken a the specialized, continuing legal education training course courses on foreclosure prevention or loss mitigation approved by the Vermont Bar Association. The court administrator, in consultation with the Vermont Bar Association, shall implement a system which ensures that the mediator is chosen through a randomized selection process in all mediations conducted pursuant to this chapter.

Sec. 2. 12 V.S.A. § 4632 is amended to read:

§ 4632. OPPORTUNITY TO MEDIATE

* * *

(b) The court shall hold a status conference no later than 90 days from the date that the mortgagor requested mediation, unless the mediator's report is filed with the court prior to such time.

(c) Unless the mortgagee agrees otherwise, all mediation shall be completed prior to the expiration of the redemption period. The redemption period shall not be stayed on account of pending mediation.

(~~e~~)(d) In an action for foreclosure of a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence, the mortgagee shall serve upon the mortgagor two copies of the notice described in subsection (~~d~~)(e) of this section with the summons and complaint. The supreme court may by rule consolidate this notice with other foreclosure-related notices as long as the consolidation is consistent with the content and format of the notice under this subsection.

(~~d~~)(e) The notice required by subsection (~~e~~)(d) of this section shall:

- (1) be on a form approved by the court administrator;
- (2) advise the homeowner of the homeowner's rights in foreclosure proceedings under this subchapter;
- (3) state the importance of participating in mediation even if the homeowner is currently communicating with the mortgagee or servicer;
- (4) provide contact information for legal services; and
- (5) incorporate a form that can be used by the homeowner to request mediation from the court.

(~~e~~)(f) The court may, on motion of a party, find that the requirements of this subchapter have been met and that the parties are not required to participate in mediation under this subchapter if the mortgagee files a motion

and establishes to the satisfaction of the court that it has complied with the applicable requirements of HAMP and supports its motion with sworn affidavits that:

(1) include the calculations and inputs required by HAMP and employed by the mortgagee; and

(2) demonstrate that the mortgagee or servicer met with the mortgagor in person or via videoconferencing or made reasonable efforts to meet with the mortgagor in person.

Sec. 3. 12 V.S.A. § 4633 is amended to read:

§ 4633. MEDIATION

(a) During all mediations under this subchapter:

(1) ~~the~~ The parties shall address proof of ownership of the note and any transfers of the note; calculation of the sums due on the note for the principal, interest, and costs or fees; and all available foreclosure prevention tools.

(2) The mortgagee shall use and consider available foreclosure prevention tools, including reinstatement, loan modification, forbearance, and short sale, and the calculations, assumptions, and forms established by the HAMP guidelines, including all HAMP-related “net present value” calculations in considering a loan modification conducted under this subchapter;

~~(2)(3) the~~ The mortgagee shall produce for the mortgagor and mediator documentation of its consideration of the options available in this subdivision and subdivision (1) of this subsection, including the data used in and the outcome of any HAMP-related “net present value” calculation; ~~and~~

~~(3)(4) where~~ Where the mortgagee claims that a pooling and servicing or other similar agreement prohibits modification, the mortgagee shall produce a copy of the agreement. All agreement documents shall be confidential and shall not be included in the mediator’s report.

* * *

Sec. 4. 12 V.S.A. § 4634(a) is amended to read:

(a) Within seven days of the conclusion of any mediation under this subchapter, the mediator shall report in writing the results of the process to the court ~~and, to both parties, and to the department of banking, insurance, securities, and health care administration.~~

Sec. 5. FORECLOSURE MEDIATION PROGRAM STUDY COMMITTEE

(a) Creation of committee. There is created a foreclosure mediation program study committee to consider appropriate measures for Vermont to take in response to the anticipated repeal of the state foreclosure mediation program when the federal Home Affordable Modification Program ("HAMP") is repealed on December 3, 2013.

(b) Membership. The foreclosure mediation program study committee shall be composed of seven members. The members of the committee shall be as follows:

(1) The administrative judge or designee.

(2) The attorney general or designee.

(3) The commissioner of banking, insurance, securities, and health care administration or designee.

(4) One member appointed by the Vermont Bar Association.

(5) One member appointed by Vermont Legal Aid.

(6) One member appointed by the Vermont Bankers Association.

(7) One member with experience as a mediator in foreclosure proceedings appointed by the Vermont Bar Association.

(c) Powers and duties. The committee shall study whether changes in state law and policy should be made in response to the anticipated repeal of Vermont's foreclosure mediation program when the federal HAMP is repealed on December 3, 2013. The committee's study shall include consideration of:

(1) the impacts of the anticipated repeal of Vermont's foreclosure mediation program and any measures that would be advisable for Vermont to take in response to the repeal;

(2) whether the Vermont foreclosure mediation program should be amended to be consistent with national settlements or standards, and whether a state foreclosure mediation program is necessary in light of such national settlements or standards;

(3) whether the mortgagee or the mortgagee's attorney should be required to be physically present at the proceeding; and

(4) whether the mediation proceeding should address all issues related to the foreclosure.

(d) Report. The committee shall report its findings and recommendations, together with draft legislation if any legislative action is recommended, to the general assembly on or before December 1, 2012.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to mediation in foreclosure proceedings"

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the report of the committee on Judiciary be agreed to? **Rep. Wizowaty of Burlington** moved to amend the report of the committee on Judiciary as follows:

By adding a new Sec. 1 to read:

Sec. 1. INTENT

By use of the term "mediation" in the present context, the General Assembly does not intend to alter the procedures that are applicable in mediations in other contexts or to modify in any way the model standards of conduct for mediators adopted by the American Arbitration Association, the American Bar Association, and the Association for Conflict Resolution.

and by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Thereupon, the report of the committee on Judiciary, as amended, was agreed to and third reading ordered.

Bill Amended, Read Third Time and Passed**H. 523**

House bill, entitled

An act relating to revising the state highway condemnation law

Was taken up and pending third reading of the bill, **Rep. Krebs of South Hero** moved to amend the bill as follows:

First: In Sec. 2, § 502, subsection (a), in the second sentence, by inserting ", after making reasonable efforts to provide the owner advance notice of such entry," after "lands".

Second: In Sec. 2, § 506, subsection (d), by inserting a new sentence to be the first sentence of that subsection to read "Upon the agency's recording of the condemnation order or notice, the clerk with responsibility over land records shall enter the name of each property owner named in the order or

notice as a grantor in the general index of transactions affecting the title to real estate.”

Rep. Krebs of South Hero asked that the question be divided.

Thereupon, **Rep. Krebs of South Hero** asked and was granted leave of the House to withdraw the first recommendation of amendment, the second recommendation of amendment was agreed to and the bill was read the third time and passed.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 37

House bill, entitled
An act relating to telemedicine

H. 764

House bill, entitled
An act relating to health insurance brokers' fees

H. 765

House bill, entitled
An act relating to the mental health needs of the corrections population

J.R.H. 27

Joint resolution, entitled
Joint resolution supporting the Vermont State Hospital employees

Bill Amended; Third Reading Ordered

H. 272

Rep. Kupersmith of South Burlington, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to maintenance of private roads

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 19 V.S.A. chapter 27 is added to read:

CHAPTER 27. PRIVATE ROADS

§ 2701. INTENT

The intent of this chapter is to state the responsibilities for the maintenance of a private road, in the absence of an express agreement or requirement governing such maintenance responsibilities, in accordance with the Vermont supreme court decision of *Hubbard v. Bolieau*, 144 Vt. 373 (1984), which draws upon established principles of Vermont law. This chapter will only apply to resolve conflicts regarding maintenance of private roads in the absence of an express agreement or requirement. The provisions of this chapter are not intended to abridge, enlarge, or modify any right provided under *Hubbard* and the common law of Vermont.

§ 2702. PRIVATE ROAD MAINTENANCE

In the absence of an express agreement or requirement governing maintenance of a private road, when more than one person enjoys a common benefit from a private road, each person shall contribute rateably to the cost of maintaining the private road, and shall have the right to bring a civil action to enforce the requirement of this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

The bill, having appeared on the Calendar one day for notice, was taken up, and read the second time.

Pending the question, Shall the bill be amended as recommended by the Committee on Commerce and Economic Development? **Rep. Kupersmith of South Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by the Committee on Commerce and Economic Development? was decided in the affirmative. Yeas, 139. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon	Bouchard of Colchester	Clarkson of Woodstock
Ancel of Calais	Branagan of Georgia	Condon of Colchester
Andrews of Rutland City	Brennan of Colchester	Conquest of Newbury
Aswad of Burlington	Burditt of West Rutland	Consejo of Sheldon
Atkins of Winooski	Buxton of Tunbridge	Copeland-Hanzas of
Bartholomew of Hartland	Campion of Bennington	Bradford
Batchelor of Derby	Canfield of Fair Haven	Corcoran of Bennington
Bissonnette of Winooski	Cheney of Norwich	Courcelle of Rutland City
Bohi of Hartford	Christie of Hartford	Crawford of Burke
Botzow of Pownal	Clark of Vergennes	Dakin of Chester

Davis of Washington	Koch of Barre Town	Peltz of Woodbury
Deen of Westminster	Komline of Dorset	Perley of Enosburgh
Degree of St. Albans City	Krebs of South Hero	Potter of Clarendon
Devereux of Mount Holly	Krowinski of Burlington	Pugh of South Burlington
Dickinson of St. Albans Town	Kupersmith of South Burlington	Ralston of Middlebury
Donaghy of Poultney	Larocque of Barnet	Ram of Burlington
Donahue of Northfield	Lawrence of Lyndon	Reis of St. Johnsbury
Donovan of Burlington	Lenes of Shelburne	Russell of Rutland City
Eckhardt of Chittenden	Lewis of Berlin	Savage of Swanton
Edwards of Brattleboro	Lewis of Derby	Scheuermann of Stowe
Ellis of Waterbury	Lippert of Hinesburg	Shand of Weathersfield
Emmons of Springfield	Lorber of Burlington	Sharpe of Bristol
Evans of Essex	Macaig of Williston	Shaw of Pittsford
Fagan of Rutland City	Malcolm of Pawlet	Smith of New Haven
Fisher of Lincoln	Manwaring of Wilmington	South of St. Johnsbury
Frank of Underhill	Marcotte of Coventry	Spengler of Colchester
French of Shrewsbury	Marek of Newfane	Stevens of Waterbury
French of Randolph	Martin of Springfield	Stevens of Shoreham
Gilbert of Fairfax	Martin of Wolcott	Strong of Albany
Greshin of Warren	Masland of Thetford	Stuart of Brattleboro
Haas of Rochester	McAllister of Highgate	Sweaney of Windsor
Head of South Burlington	McCullough of Williston	Taylor of Barre City
Heath of Westford	McFaun of Barre Town	Toll of Danville
Hebert of Vernon	McNeil of Rutland Town	Townsend of Randolph
Helm of Fair Haven	Miller of Shaftsbury	Trieber of Rockingham
Higley of Lowell	Mook of Bennington	Turner of Milton
Hooper of Montpelier	Moran of Wardsboro	Waite-Simpson of Essex
Howard of Cambridge	Mrowicki of Putney	Webb of Shelburne
Howrigan of Fairfield	Myers of Essex	Wilson of Manchester
Hubert of Milton	Nuovo of Middlebury	Winters of Williamstown
Jerman of Essex	O'Brien of Richmond	Wizowaty of Burlington
Jewett of Ripton	Olsen of Jamaica	Woodward of Johnson
Johnson of South Hero	O'Sullivan of Burlington	Wright of Burlington
Johnson of Canaan	Partridge of Windham	Yantachka of Charlotte
Keenan of St. Albans City	Pearce of Richford	Young of Glover
Kitzmiller of Montpelier	Pearson of Burlington	Zagar of Barnard
Klein of East Montpelier	Peaslee of Guildhall	

Those who voted in the negative are:

none

Those members absent with leave of the House and not voting are:

Browning of Arlington	Lanpher of Vergennes	Smith of Morristown
Burke of Brattleboro	Morrissey of Bennington	Till of Jericho
Grad of Moretown	Munger of South Burlington	
Kilmartin of Newport City	Poirier of Barre City	

Thereupon, third reading was ordered.

Bill Amended, Read Third Time and Passed

H. 524

House bill, entitled

An act relating to the regulation of professions and occupations

Was taken up and pending third reading of the bill, **Rep. Donahue of Northfield** moved to amend the bill as follows:

By adding a new section to be Sec. 62a to read:

Sec. 62a. 31 V.S.A. § 1108 is amended to read:

§ 1108. MATCHES; SPECIAL PROVISIONS

* * *

(e) A person shall not participate in a match unless he or she is 18 years of age or older.

Thereupon, **Rep. Donahue of Northfield** asked and was granted leave of the House to withdraw her amendment.

Pending third reading of the bill, **Rep. Hubert of Milton** moved to amend the bill as follows:

First: In Sec. 61, 31 V.S.A. § 1101, by striking subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) “Boxing match” or “match” means a contest or training exhibition for a prize or purse where an admission fee is charged and where individuals score points by striking the head and upper torso of an opponent with padded fists. An amateur ~~boxing~~ match is a match held under the supervision of a school, college, or university ~~or~~; under the supervision of United States Amateur Boxing, Inc. or its successor as the ~~nationally designated~~ nationally designated governing body for amateur boxing; or, for any other match, under the supervision of a nationally designated governing body. All other matches shall be considered professional ~~boxing~~ matches. Kickboxing, martial arts, and mixed martial arts, as defined in this section, shall be considered “matches” for the purposes of this chapter.

Second: By adding a new section to be Sec. 62a to read:

Sec. 62a. 31 V.S.A. § 1108 is amended to read:

§ 1108. MATCHES; SPECIAL PROVISIONS

* * *

(e) A person under the age of 18 shall not participate in any professional match, as that term is described in subdivision 1101(2) of this chapter.

Which was agreed to.

Pending third reading of the bill, **Rep. Fagan of Rutland City** moved to amend the bill as follows:

By adding a new section to be Sec. 17a to read:

Sec. 17a. NURSING SUPERVISION LIMITATION; MEDICATION
NURSING ASSISTANTS

No provision in chapter 28 of Title 26 shall prohibit the refusal by a nurse practicing nursing in a nursing home on the effective date of this act to supervise a medication nursing assistant as that term is defined in subchapter 2 of chapter 28 of Title 26.

Which was agreed to.

Pending third reading of the bill, **Rep. Evans of Essex** moved to amend the bill as follows:

In Sec. 51, 26 V.S.A. § 3381, in subdivision (1), after “American Dietetic Association”, by striking out “Academy of Dietetics and Nutrition” and inserting in lieu thereof “Academy of Nutrition and Dietetics”

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Adjournment

At two o'clock and fifteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, March 16, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Johanna Leddy Donovan of Burlington, VT.

Memorial Service

The Speaker placed before the House the following name of member of past sessions of the Vermont General Assembly who had passed away recently:

**Gloria Ann Conant Member from Richmond
Sessions of 1979 and 1981**

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased member. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved family

Committee Bill Introduced**H. 771**

Rep. Donovan of Burlington, for the committee on Education, introduced a bill, entitled

An act relating to making technical corrections and other miscellaneous changes to education law

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Committee Bill Introduced**H. 772**

Rep. Head of South Burlington, for the committee on General, Housing and Military Affairs, introduced a bill, entitled

An act relating to allocation of federal rental subsidies

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Bill Referred to Committee on Appropriations**H. 770**

House bill, entitled

An act relating to the state's transportation program

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Remarks Journalized

On motion of **Rep. Zagar of Barnard**, the following remarks by **Rep. Donovan of Burlington** were ordered printed in the Journal:

“Mr. Speaker:

It is said that March 17th is the day that three requests were granted to St. Patrick by an angel of the Lord in order to bring happiness and hope to the people of Ireland.

First, that on that day the weather in Ireland should always be fair to allow the faithful to attend church. Second, that on every Thursday and Saturday twelve Irishman should be freed from the pains of hell. And, third, that no outlander should ever rule over Ireland.

I checked with Yahoo earlier and the weather forecast for tomorrow is fair so all will be able to attend Mass.

And could there be any better evidence that 12 Irishman have been regularly released from the nether world than the fact that Donaghy, McNeil, Donohue and Howrigan are in their seats this morning. And the third promise has been kept for in Ireland they are celebrating this day in freedom and liberty.

Ireland's history is rife with stories of persecution, discrimination and oppression. In 1691, no Irish Catholic could vote, serve on a jury, enter a university, become a lawyer, work for the government or marry a Protestant. Nor could they practice their religion openly. In 1847 it was reported to the House of Commons that 15,000 people a day were dying of starvation as a result of the famine. Queen Victoria was so moved by this sad news that she dug deep into her treasure and contributed five pounds to the society for Irish relief.

Consequently, Ireland's greatest export has been her people who have fought with sword and pen for freedom around the world. Our own history is rich with stories of the Irish fighting for human dignity and social justice. Mary Harris Jones, Mother Jones, was known as the miner's angel for her work as a labor organizer. Her memorable phrase still rings true. “Pray for the dead, and fight like hell for the living”. Al Smith was the Governor of New York who identified with immigrants and considered himself a man of the people. He was the first national political figure to decry publicly lynching and racial violence. And Bobby Kennedy walked with the poor of Appalachia and pointed out their plight to an affluent nation.

This is the powerful tradition of the Irish experience – And one I hope will survive and continue just like the cause of Irish freedom survived the death of Own Roe O'Neil. O'Neil is a great figure of Irish history whose death plunged the nation into grief. He was immortalized with these words.

Sagest in the council was he,
Kindest in the hall;

Sure, we never won a battle
 --Twas Owen won them all
 Soft as woman's was your voice, O'Neil:
 Bright was your eye,
 Oh! Why did you leave us, Owen?
 Why did you die?

Your troubles are all over,
 You're at rest with God on high,
 But we're slaves, and we're orphans, Owen,
 ----Why did you die?

We're sheep without a shepherd,
 When the snow shuts out the sky—
 Oh! Why did you leave us, Owen?
 Why did you die?

Today let's remember this rich heritage. Let's reach out to those who struggle today---the poor, the oppressed, and the disenfranchised. Let's not leave them "to be sheep without a shepherd when the snow shuts out the sky". Instead let's bring them the constancy, the faith and the hope of the Irish. "

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 272

House bill, entitled

An act relating to maintenance of private roads;

H. 600

House bill, entitled

An act relating to mandatory mediation in foreclosure proceedings;

Joint Resolutions Adopted

Joint resolutions of the following titles were severally taken up and adopted on the part of the House;

J.R.H. 30

Joint resolution, entitled

Joint resolution authorizing 2012 Green Mountain Girls' State to conduct a civic education program at the State House;

J.R.H. 31

Joint resolution, entitled

Joint resolution urging Congress to designate March 29 as Vietnam Veterans Day.

Message from the Senate No. 27

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 147. An act relating to granting staff of the departments of corrections and for children and families ex officio status for the purpose of obtaining and providing notary public services.

S. 230. An act relating to property and casualty insurers and electronic notices.

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

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

J.R.H. 29. Joint resolution commemorating Women's History Month, the publication of the sixth edition of *The Legal Rights of Women in Vermont*, and reaffirming continuing support for equal rights for women.

And has adopted the same in concurrence.

Message from the Senate No. 28

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 136. An act relating to vocational rehabilitation.

S. 152. An act relating to the definition of line of duty in the workers' compensation statutes.

S. 194. An act relating to consolidation of supervisory unions.

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

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

H. 512. An act relating to banking, insurance, securities, and health care administration.

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

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 292. House concurrent resolution designating March 12–18 as Multiple Sclerosis Week in Vermont.

H.C.R. 293. House concurrent resolution honoring Montpelier city clerk and treasurer Charlotte Hoyt for her outstanding public service.

H.C.R. 294. House concurrent resolution honoring and thanking the individuals, institutions, and organizations who lent their assistance so generously during and after Tropical Storm Irene.

H.C.R. 295. House concurrent resolution congratulating Emery Tillman of Cornwall on her kayaking accomplishments.

H.C.R. 296. House concurrent resolution honoring Elizabeth Benedict for her lifelong commitment to educational excellence.

H.C.R. 297. House concurrent resolution honoring Belinda H. Clegg for her outstanding public service to the town of Wolcott.

H.C.R. 298. House concurrent resolution congratulating Marlboro College on its 65th anniversary.

H.C.R. 299. House concurrent resolution recognizing the outstanding health care services provided by Gifford Medical Center in Randolph.

H.C.R. 300. House concurrent resolution honoring Brattleboro radio station WKVT AM/FM for its outstanding Tropical Storm Irene community support effort.

H.C.R. 301. House concurrent resolution honoring the outstanding efforts of those who care for, educate, and advocate for our young children in Vermont.

H.C.R. 302. House concurrent resolution in memory of former Representative Mary Shelby Paull.

H.C.R. 303. House concurrent resolution congratulating the Middlebury Union High School Tigers' 2012 Division II girls' championship Nordic skiing team.

Adjournment

At nine o'clock and fifty minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, March 19, at two o'clock in the afternoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 292

House concurrent resolution designating March 12–18 as Multiple Sclerosis Week in Vermont;

H.C.R. 293

House concurrent resolution honoring Montpelier city clerk and treasurer Charlotte Hoyt for her outstanding public service;

H.C.R. 294

House concurrent resolution honoring and thanking the individuals, institutions, and organizations who lent their assistance so generously during and after Tropical Storm Irene;

H.C.R. 295

House concurrent resolution congratulating Emery Tillman of Cornwall on her kayaking accomplishments;

H.C.R. 296

House concurrent resolution honoring Elizabeth Benedict for her lifelong commitment to educational excellence;

H.C.R. 297

House concurrent resolution honoring Belinda H. Clegg for her outstanding public service to the town of Wolcott;

H.C.R. 298

House concurrent resolution congratulating Marlboro College on its 65th anniversary;

H.C.R. 299

House concurrent resolution recognizing the outstanding health care services provided by Gifford Medical Center in Randolph;

H.C.R. 300

House concurrent resolution honoring Brattleboro radio station WKVT AM/FM for its outstanding Tropical Storm Irene community support effort;

H.C.R. 301

House concurrent resolution honoring the outstanding efforts of those who care for, educate, and advocate for our young children in Vermont;

H.C.R. 302

House concurrent resolution in memory of former Representative Mary Shelby Paull;

H.C.R. 303

House concurrent resolution congratulating the Middlebury Union High School Tigers' 2012 Division II girls' championship Nordic skiing team ;

S.C.R. 39

Senate concurrent resolution honoring former Representative and Senator Robert T. Gannett on his 95th birthday;

S.C.R. 40

Senate concurrent resolution congratulating Ross Connelly and Thomas F. Kearney on their induction into the New England Newspaper Hall of Fame;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Monday, March 19, 2012

At two o'clock in the afternoon the Speaker called the House to order.

Noting the absence of a quorum, the Speaker adjourned the House at two o'clock and fifteen minutes in the afternoon until tomorrow at ten o'clock in the forenoon.

Tuesday, March 20, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Kevin Goldenboger of the United Church of Christ, Underhill, VT and Page Sage Luksevich of Underhill, VT.

Pledge of Allegiance

Page Taylor Chappel of St. Johnsbury led the House in the Pledge of Allegiance.

House Committee Bills Introduced

House bills of the following titles were severally introduced, read the first time and under the rule, placed on the Calendar for notice.

H. 773

By the committee on General, Housing and Military Affairs,
An act relating to veterans' tax exemption;

H. 774

By the committee on Agriculture,
An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths;

H. 775

By the committee on Commerce and Economic Development,
An act relating to allowed interest rates for installment loans;

H. 776

By the committee on Education,
An act relating to encouraging flexible pathways leading to secondary school completion and career and college readiness;

H. 777

By the committee on Health Care,
An act relating to licensed midwives and certified nurse midwives;

H. 778

By the committee on Judiciary,
An act relating to structured settlements;

H. 779

By the committee on Fish, Wildlife & Water Resources,
An act relating to the water quality of state surface waters;

H. 780

By the committee on Government Operations,
An act relating to compensation for certain state employees;

H. 781

By the committee on Appropriations,
An act relating to making appropriations for the support of government.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 136

Senate bill, entitled
An act relating to vocational rehabilitation;
To the committee on Commerce and Economic Development.

S. 147

Senate bill, entitled
An act relating to granting staff of the departments of corrections and for children and families ex officio status for the purpose of obtaining and providing notary public services;
To the committee on Government Operations.

S. 152

Senate bill, entitled
An act relating to the definition of line of duty in the workers' compensation statutes;
To the committee on Commerce and Economic Development.

S. 194

Senate bill, entitled
An act relating to consolidation of supervisory unions;
To the committee on Education.

S. 230

Senate bill, entitled

An act relating to property and casualty insurers and electronic notices;

To the committee on Commerce and Economic Development.

Bill Read Second Time; Third Reading Ordered**H. 768**

Rep. French of Shrewsbury spoke for the committee on Judiciary.

House bill entitled

An act relating to ignition interlock restricted driver's licenses and civil suspensions

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Amended; Third Reading Ordered**H. 78**

Rep. O'Sullivan of Burlington, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to wages for laid-off employees

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 1971 is amended to read:

§ 1971. EXTENT OF LIEN

The liability of ~~a corporation~~ an employer as defined in 21 V.S.A. § 341 to ~~wage-earners~~ an employee for unpaid wages which were earned in the ~~three months next~~ thirty days prior to the filing of a mortgage or other lien upon the property ~~and franchise of such corporation~~ of the employer, in all cases, shall be a first lien thereon, notwithstanding any mortgage or other lien thereon recorded after such wages were earned. ~~An individual who works for wages, salary or hire at a rate of compensation not exceeding \$3,000.00 a year shall be deemed to be a wage-earner within the meaning of this section.~~ Notice of the lien shall be filed with the secretary of state's office and, if applicable, in the land records by the employee or the department of labor acting on behalf of the employee. An employee who is owed wages or the department of labor acting on behalf of that employee may file an action to execute on the lien in the civil

division of the superior court in the county in which the employer has its principal place of business in the state.

Sec. 2. 11A V.S.A. § 14.03 is amended to read:

§ 14.03. ARTICLES OF DISSOLUTION

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth:

- (1) the name of the corporation;
- (2) the date dissolution was authorized;
- (3) if dissolution was approved by the shareholders:

(A) the number of votes entitled to be cast on the proposal to dissolve; and

(B) either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval;

(4) if voting by voting groups was required, the information required by subdivision (3) of this subsection ~~must be~~ separately provided for each voting group entitled to vote separately on the plan to dissolve;

(5) a statement as to the settlement of debts, the distribution of property, and the status of pending litigation;

(6) a statement whether the corporation owes any unpaid wages to its employees.

(b) Subject to the provisions of section 14.09 of this title, a corporation is dissolved upon the effective date of its articles of dissolution.

(c) If a corporation owes unpaid wages to its employees, it shall also file a statement to that effect with the department of labor.

(d) A corporation's liability for unpaid wages shall not be affected by the corporation's dissolution and winding up of its affairs. The directors and shareholders of a corporation shall be individually liable in an action brought by the department of labor for any unpaid wages owed to the corporation's employees, or brought by an individual employee that is owed wages by the corporation.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on General, Housing and Military Affairs agreed to and third reading ordered.

Bill Amended; Third Reading Ordered**H. 157**

Rep. Komline of Dorset, for the committee on Health Care, to which had been referred House bill, entitled

An act relating to restrictions on tanning beds

Reported in favor of its passage when amended as follows:

First: In Sec. 1, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) Any tanning facility or operator that allows a person under 18 years of age to use any tanning equipment shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action to enforce this section shall be brought in the judicial bureau pursuant to 4 V.S.A. chapter 29.

Second: In Sec. 1, by adding a subsection (f) to read as follows:

(f) A tanning facility owner, lessee, or operator shall post in a conspicuous place in each tanning facility that the individual owns, leases, or operates in this state a notice developed by the commissioner of health addressing the following:

(1) that it is unlawful for a tanning facility or operator to allow a person under the age of 18 to use any tanning equipment;

(2) that a tanning facility or operator that violates the provisions of this section shall be subject to a civil penalty;

(3) that an individual may report a violation of the provisions of this section to his or her local law enforcement agency; and

(4) the health risks associated with tanning.

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

Sec. 2. 4 V.S.A. § 1102(b)(23) is added to read:

(23) Violations of 18 V.S.A. § 1513, relating to minors using tanning facilities.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Health Care agreed to and third reading ordered.

Bill Amended; Third Reading Ordered**H. 747**

Rep. Krowinski of Burlington, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to cigarette manufacturers

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; REQUIREMENTS;
PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than 18 years of age.

* * *

(d) ~~Beginning January 1, 1999, excepting contracts in existence prior to March 31, 1997, n~~No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel. This subsection shall not apply to the following:

(1) A display of tobacco products that is located in a commercial establishment in which by law no person younger than 18 years of age is permitted to enter at any time.

(2) Cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee.

(3) Cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

* * *

(f) No person holding a tobacco license shall sell cigarettes or little cigars ~~as defined in 32 V.S.A. § 7702(6)~~ individually or in packs that contain fewer than 20 cigarettes or little cigars.

(g) As used in this section, "little cigars" means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any

roll of tobacco which is a cigarette within the meaning of 32 V.S.A. § 7202(1)) and as to which 1,000 units weigh not more than three pounds.

Sec. 2. 7 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

* * *

(3) “Tobacco products” mean cigarettes, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut, and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, or for delivery into the body through inhaling heated vapor or in any other manner.

* * *

(7) “Tobacco paraphernalia” means any device used, intended for use, or designed for use in smoking, inhaling, ingesting, or otherwise introducing tobacco products into the human body, or for preparing tobacco for smoking, inhaling, ingesting, or otherwise introducing into the human body, including devices for holding tobacco, rolling paper, wraps, cigarette rolling machines, pipes, water pipes, carburetion devices, bongs, and hookahs.

(8) “Tobacco substitute” means products including electronic cigarettes or other electronic or battery-powered devices that contain and are designed to deliver nicotine or other substances into the body through inhaling vapor and that have not been approved by the United States Food and Drug Administration for tobacco cessation or other medical purposes.

Sec. 3. 7 V.S.A. § 1006 is amended to read:

§ 1006. POSTING OF SIGNS

(a) A person licensed under this chapter shall post ~~a plainly printed copy of the provisions of sections 1004 and 1005 of this title~~ in a conspicuous place on the premises identified in the tobacco license ~~and on any vending machine located on the premises~~ a warning sign stating that the sale of tobacco products, tobacco substitutes, and tobacco paraphernalia to minors is prohibited. The board shall prepare the ~~signs~~ sign and make ~~them~~ it available with the license forms issued under this chapter. The sign may include information about the health effects of tobacco and tobacco cessation services.

The board, in consultation with a representative of the licensees when appropriate, is authorized to change the design of the sign as needed to maintain its effectiveness.

* * *

Sec. 4. 33 V.S.A. § 1925 is added to read:

§ 1925. JOINT AND SEVERAL LIABILITY OF IMPORTERS OF
NONPARTICIPATING MANUFACTURER'S BRAND FAMILIES

Each nonparticipating manufacturer located outside the United States and each importer of any nonparticipating manufacturer's brand families that are sold in the state shall bear joint and several liability for the deposit of all escrow due and payment of all penalties, costs, and attorney fees imposed under this subchapter. The nonparticipating manufacturer, as a condition to being listed on the directory, shall provide a declaration on a form prescribed by the attorney general from each of its importers of any of its brand families to be sold in the state that the importer accepts joint and several liability for all escrow deposits due pursuant to section 1914 of this title and for all penalties, costs, and attorney fees assessed under section 1914 of this title.

Sec. 5. 33 V.S.A. § 1920 is amended to read:

§ 1920. AGENT FOR SERVICE OF PROCESS

(a) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or other business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this subchapter or subchapter 1A of this chapter, or both, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number, and satisfactory proof of the appointment and availability of such agent to the attorney general. Any nonparticipating manufacturer located outside the United States shall, as an additional condition to having its brand families included or retained on the directory, cause each of its importers into the United States of any of its brand families to be sold in Vermont to appoint and continuously engage without interruption the services of an agent in the state in accordance with the provisions of this section.

* * *

Sec. 6. 7 V.S.A. § 1011 is added to read:

§ 1011. COMMERCIAL CIGARETTE ROLLING MACHINES

(a) A person shall not possess or use a cigarette rolling machine for commercial purposes.

(b) A person who knowingly violates subsection (a) of this section shall be subject to the following civil penalties:

(1) The revocation or termination of any license, permit, appointment, or commission under this chapter.

(2) A civil penalty of up to \$50,000.00 in any action brought by the department of taxes, the department of liquor control, or the attorney general.

(c) Penalties assessed under subsection (b) of this section shall be paid into the general fund.

(d) A person who violates subsection (a) of this section shall be imprisoned for not more than three years or fined not more than \$100,000.00 or both.

(e) This section shall not apply to the possession of a cigarette rolling machine intended solely for personal use by individuals who do not intend to offer the resulting product for resale.

(f) A cigarette rolling machine capable of rolling 200 cigarettes in fewer than 15 minutes is presumed to be for commercial purposes.

Sec. 7. 7 V.S.A. § 1009 is amended to read:

§ 1009. CONTRABAND AND SEIZURE

Any cigarettes or other tobacco products that have been sold, offered for sale, or possessed for sale in violation of section 1003 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband, and shall be subject to seizure by the commissioner, the commissioner's agents or employees, the commissioner of taxes, or any agent or employee thereof, or by any peace officer of this state when directed to do so by the commissioner. All cigarettes or other tobacco products seized shall be destroyed.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Human Services, **Rep. Krowinski of Burlington** moved to amend the report of the committee on Human Services as follows:

By inserting a Sec. 8 to read:

Sec. 8. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

* * *

(6) “Little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subdivision (1) of this section) and as to which 1,000 units weigh not more than ~~three pounds~~ four and one-half pounds.

* * *

Which was agreed to.

Thereupon, the report of the committee on Human Services was agreed to, as amended, and third reading was ordered.

Bill Amended; Third Reading Ordered

H. 751

Rep. Wizowaty of Burlington, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to jurisdiction of delinquency proceedings

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

The general assembly intends this act to enhance opportunities to treat youths as juveniles in the family division of the superior court while preserving the discretion of state’s attorneys to bring criminal charges against youths in appropriate cases. Evidence-based practice and research clearly indicate that young people charged as juveniles are much more likely to receive the services necessary for their rehabilitation and are much less likely to reoffend, resulting in fewer corrections expenses for the state and more opportunities for the offender to change his or her behavior. This act therefore contains several measures designed to facilitate the filing of juvenile proceedings against some minors in the family division while retaining the discretion of state’s attorneys to charge other minors as adults in the criminal division when the facts warrant it. By promoting the treatment of youths as juveniles in the family division rather than as adults in criminal court, the general assembly intends this act to

help establish a more effective way to reduce recidivism and its attendant budgetary and societal costs.

Sec. 2. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The family division of the superior court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

(b) Orders issued under the authority of the juvenile judicial proceedings chapters shall take precedence over orders in other family division proceedings and any order of another court of this state, to the extent they are inconsistent. This section shall not apply to child support orders in a divorce, parentage, or relief from abuse proceedings until a child support order has been issued in the juvenile proceeding.

(c) Except as otherwise provided by this title, jurisdiction over a child who has been adjudicated delinquent shall not be extended beyond the child's ~~18th~~ 20th birthday, provided that in no case shall custody of a child aged 18 years or older be retained by or transferred to the commissioner for children and families. Jurisdiction over a child in need of care or supervision shall not be extended beyond the child's 18th birthday.

(d) The court may terminate its jurisdiction over a child ~~prior to the child's 18th birthday~~ by order of the court. If the child is not subject to another juvenile proceeding, jurisdiction shall terminate automatically in the following circumstances:

(1) Upon the discharge of a child from juvenile probation, providing the child is not in the legal custody of the commissioner.

(2) Upon an order of the court transferring legal custody to a parent, guardian, or custodian without conditions or protective supervision.

(3) Upon the adoption of a child following a termination of parental rights proceeding.

Sec. 3. 33 V.S.A. § 5201 is amended to read:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

* * *

(c) Consistent with applicable provisions of Title 4, any proceeding concerning a child who is alleged to have committed an act specified in ~~subsection 5204(a)~~ subdivision 5204(a)(1) of this title after attaining the age of 14, but not the age of 18, shall originate in ~~district or~~ the criminal division of the superior court, provided that jurisdiction may be transferred in accordance with this chapter.

* * *

Sec. 4. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a criminal division of the superior court that the defendant was under the age of 16 years at the time the offense charged was alleged to have been committed and the offense charged is not one of those specified in ~~subsection 5204(a)~~ subdivision 5204(a)(1) of this title, that court shall forthwith transfer the case to the ~~juvenile~~ family division of the superior court under the authority of this chapter.

(b) If it appears to a criminal division of the superior court that the defendant was over the age of 16 years and under the age of 18 years at the time the offense charged was alleged to have been committed, or that the defendant had attained the age of 14 but not the age of 16 at the time an offense specified in ~~subsection 5204(a)~~ subdivision 5204(a)(1) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the ~~juvenile~~ family division of the superior court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the state's attorney that the defendant was over the age of 16 and under the age of 18 at the time the offense charged was alleged to have been committed and the offense charged is not an offense specified in ~~subsection 5204(a)~~ subdivision 5204(a)(1) of this title, the state's attorney may file charges in a ~~juvenile court or the family or~~ criminal division of the superior court. If charges in such a matter are filed in the criminal division of the superior court, the criminal division of the superior court may forthwith transfer the proceeding to the ~~juvenile~~ family division of the superior court under the authority of this chapter, and the person shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.

* * *

Sec. 5. 33 V.S.A. § 5204 is amended to read:

§ 5204. TRANSFER FROM JUVENILE COURT

(a) After a petition has been filed alleging delinquency, upon motion of the state's attorney and after hearing, the juvenile family division of the superior court may transfer jurisdiction of the proceeding to the criminal division of the superior court, if:

(1) the child had attained the age of 10 but not the age of 14 at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

~~(1)~~(A) arson causing death as defined in 13 V.S.A. § 501;

~~(2)~~(B) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

~~(3)~~(C) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);

~~(4)~~(D) aggravated assault as defined in 13 V.S.A. § 1024;

~~(5)~~(E) murder as defined in 13 V.S.A. § 2301;

~~(6)~~(F) manslaughter as defined in 13 V.S.A. § 2304;

~~(7)~~(G) kidnapping as defined in 13 V.S.A. § 2405;

~~(8)~~(H) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

~~(9)~~(I) maiming as defined in 13 V.S.A. § 2701;

~~(10)~~(J) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

~~(11)~~(K) aggravated sexual assault as defined in 13 V.S.A. § 3253; ~~or~~

~~(12)~~(L) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c); or

(2) the child had attained the age of 16 but not the age of 18 at the time the act was alleged to have occurred and the delinquent act set forth in the petition was not one of those specified in subdivision (1) of this subsection.

(b) The state's attorney of the county where the juvenile petition is pending may move in the juvenile family division of the superior court for an order transferring jurisdiction under subsection (a) of this section ~~within 10 days of the filing of the petition alleging delinquency~~ at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the juvenile court may deny the motion to transfer jurisdiction.

(c) Upon the filing of a motion to transfer jurisdiction under subsection (b) of this section, the juvenile court shall conduct a hearing in accordance with procedures specified in subchapter 2 of this chapter to determine whether:

(1) there is probable cause to believe that the child committed an act listed in subsection (a) of this section; and

(2) public safety and the interests of the community would not be served by treatment of the child under the provisions of law relating to juvenile courts and delinquent children.

(d) In making its determination as required under subsection (c) of this section, the court may consider, among other matters:

(1) The maturity of the child as determined by consideration of his or her age, home, environment; emotional, psychological and physical maturity; and relationship with and adjustment to school and the community.

(2) The extent and nature of the child's prior record of delinquency.

(3) The nature of past treatment efforts and the nature of the child's response to them.

(4) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

(5) The nature of any personal injuries resulting from or intended to be caused by the alleged act.

(6) The prospects for rehabilitation of the child by use of procedures, services, and facilities available through juvenile proceedings.

(7) Whether the protection of the community would be better served by transferring jurisdiction from the ~~juvenile court~~ family division to the criminal division of the superior court.

(e) A transfer under this section shall terminate the jurisdiction of the juvenile court over the child only with respect to those delinquent acts alleged in the petition with respect to which transfer was sought.

(f)(1) The ~~juvenile court~~ family division, following completion of the transfer hearing, shall make ~~written~~ findings and, if the court orders transfer of jurisdiction from the ~~juvenile court~~ family division, shall state the reasons for that order. If the ~~juvenile court~~ family division orders transfer of jurisdiction, the child shall be treated as an adult. The state's attorney shall commence criminal proceedings as in cases commenced against adults.

(2) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to a transfer of jurisdiction from the family division at any time after a

motion to transfer is made pursuant to subsection (b) of this section. The court shall not be required to make findings if the parties stipulate to a transfer pursuant to this subdivision. Upon acceptance of the stipulation to transfer jurisdiction, the court shall transfer the proceedings to the criminal division and the child shall be treated as an adult. The state's attorney shall commence criminal proceedings as in cases commenced against adults.

(g) The order granting or denying transfer of jurisdiction shall not constitute a final judgment or order within the meaning of Rules 3 and 4 of the Vermont Rules of Appellate Procedure.

(h) If a person who has not attained the age of 16 at the time of the alleged offense has been prosecuted as an adult and is not convicted of one of the acts listed in subsection (a) of this section but is convicted only of one or more lesser offenses, jurisdiction shall be transferred to the juvenile family division of the superior court for disposition. A conviction under this subsection shall be considered an adjudication of delinquency and not a conviction of crime, and the entire matter shall be treated as if it had remained in ~~juvenile court~~ the family division throughout. In case of an acquittal for a matter specified in this subsection and in case of a transfer to ~~juvenile court~~ the family division under this subsection, the court shall order the sealing of all applicable files and records of the court, and such order shall be carried out as provided in subsection 5119(e) of this title.

(i) The record of a hearing conducted under subsection (c) of this section and any related files shall be open to inspection only by persons specified in subsections 5117(b) and (c) of this title in accordance with section 5119 of this title and by the attorney for the child.

Sec. 6. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING

(a) A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing.

(b) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the department or by a community provider that has contracted with the department to provide risk and need screenings for children alleged to have committed delinquent acts. If the child participates in such a screening, the department or the community provider shall report the risk level result of the screening to the state's attorney. If a charge is brought in the family division,

the risk level result shall be provided to the child's attorney. Except on agreement of the parties, the results shall not be provided to the court until after a merits finding has been made.

(c) Counsel for the child shall be assigned prior to the preliminary hearing.

~~(e)~~(d) At the preliminary hearing, the court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's parent, guardian, or custodian. On its own motion or motion by the child's attorney, the court may appoint a guardian ad litem other than a parent, guardian or custodian.

~~(d)~~(e) At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the court may proceed directly to disposition, provided that the juvenile, the custodial parent, the state's attorney, the guardian ad litem, and the department agree.

~~(e)~~(f) The court may order the child to abide by conditions of release pending a merits or disposition hearing.

Sec. 7. 33 V.S.A. § 5232 is amended to read:

§ 5232. DISPOSITION ORDER

* * *

(b) In carrying out the purposes outlined in subsection (a) of this section, the court may:

* * *

(7) Refer a child directly to a youth-appropriate community-based provider that has been approved by the department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subdivision shall not require the court to place the child on probation. If the community-based provider does not accept the case, or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child shall return to the court for disposition.

* * *

Sec. 8. REPORT

On or before December 1, 2013, the court administrator, in collaboration with the department for children and families and the court diversion director, shall report statistics evidencing the result of this act to the house and senate

committees on judiciary, the house committee on human services, and the senate committee on health and welfare. The report shall identify:

- (1) the number of youths 16 years of age or older on juvenile probation;
- (2) the number of filings involving 16- and 17-year-olds in the family and criminal divisions of the superior court;
- (3) the number of 16- and 17-year-olds referred to the diversion program;
- (4) the number of violations of probation filed in the family division for person 18 years of age or older;
- (5) the number of 16- and 17-year-olds referred directly to community providers at disposition hearings in the family division; and
- (6) the number of persons 16 years of age or older returned to the family division after the effective date of this act as a result of either nonacceptance by a community-based provider or failure to complete either the diversion program or a program administered by a community-based provider.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Message from the Senate No. 29

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 226. An act relating to combating illegal diversion of prescription opiates and increasing treatment resources for opiate addiction.

S. 239. An act relating to ensuring the humane treatment and slaughter of animals.

S. 244. An act relating to referral to court diversion for driving with a suspended license.

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

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 51. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Favorable Report; Third Reading Ordered

H. 770

Rep. Brennan of Colchester, for the committee on Transportation, to which had been referred House bill, entitled

An act relating to the state's transportation program

Reported in favor of its passage.

Rep. Helm of Castleton, for the committee on Appropriations, recommended that the bill ought to pass.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 139. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon	Clark of Vergennes	Emmons of Springfield
Ancel of Calais	Clarkson of Woodstock	Evans of Essex
Andrews of Rutland City	Condon of Colchester	Fagan of Rutland City
Aswad of Burlington	Conquest of Newbury	Fisher of Lincoln
Atkins of Winooski	Consejo of Sheldon	Frank of Underhill
Bartholomew of Hartland	Copeland-Hanzas of	French of Shrewsbury
Batchelor of Derby	Bradford	French of Randolph
Bissonnette of Winooski	Corcoran of Bennington	Gilbert of Fairfax
Bohi of Hartford	Courcelle of Rutland City	Grad of Moretown
Botzow of Pownal	Dakin of Chester	Greshin of Warren
Bouchard of Colchester	Davis of Washington	Haas of Rochester
Branagan of Georgia	Deen of Westminster	Head of South Burlington
Brennan of Colchester	Devereux of Mount Holly	Heath of Westford
Browning of Arlington	Dickinson of St. Albans	Hebert of Vernon
Burditt of West Rutland	Town	Helm of Fair Haven
Burke of Brattleboro	Donaghy of Poultney	Higley of Lowell
Buxton of Tunbridge	Donahue of Northfield	Hooper of Montpelier
Campion of Bennington	Donovan of Burlington	Howard of Cambridge
Canfield of Fair Haven	Eckhardt of Chittenden	Hubert of Milton
Cheney of Norwich	Edwards of Brattleboro	Jerman of Essex
Christie of Hartford	Ellis of Waterbury	Jewett of Ripton

Johnson of South Hero	McFaun of Barre Town	Sharpe of Bristol
Johnson of Canaan	McNeil of Rutland Town	Shaw of Pittsford
Kilmartin of Newport City	Miller of Shaftsbury	Smith of New Haven
Kitzmiller of Montpelier	Mook of Bennington	South of St. Johnsbury
Klein of East Montpelier	Moran of Wardsboro	Stevens of Waterbury
Koch of Barre Town	Mrowicki of Putney	Stevens of Shoreham
Komline of Dorset	Munger of South Burlington	Strong of Albany
Krebs of South Hero	Myers of Essex	Stuart of Brattleboro
Krowinski of Burlington	Nuovo of Middlebury	Sweaney of Windsor
Kupersmith of South Burlington	O'Brien of Richmond	Taylor of Barre City
Lanpher of Vergennes	Olsen of Jamaica	Till of Jericho
Larocque of Barnet	O'Sullivan of Burlington	Toll of Danville
Lawrence of Lyndon	Partridge of Windham	Townsend of Randolph
Lenes of Shelburne	Pearce of Richford	Trieber of Rockingham
Lewis of Berlin	Pearson of Burlington	Turner of Milton
Lewis of Derby	Peaslee of Guildhall	Waite-Simpson of Essex
Lippert of Hinesburg	Peltz of Woodbury	Webb of Shelburne
Macaig of Williston	Perley of Enosburgh	Wilson of Manchester
Malcolm of Pawlet	Poirier of Barre City	Winters of Williamstown
Marcotte of Coventry	Potter of Clarendon	Wizowaty of Burlington
Marek of Newfane	Pugh of South Burlington	Woodward of Johnson
Martin of Springfield	Ram of Burlington	Wright of Burlington
Martin of Wolcott	Reis of St. Johnsbury	Yantachka of Charlotte
Masland of Thetford	Russell of Rutland City	Young of Glover
McAllister of Highgate	Savage of Swanton	Zagar of Barnard
McCullough of Williston	Scheuermann of Stowe	
	Shand of Weathersfield	

Those who voted in the negative are:

none

Those members absent with leave of the House and not voting are:

Crawford of Burke	Lorber of Burlington	Smith of Morristown
Degree of St. Albans City	Manwaring of Wilmington	Spengler of Colchester
Howrigan of Fairfield	Morrissey of Bennington	
Keenan of St. Albans City	Ralston of Middlebury	

Recess

At twelve o'clock and thirty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At one o'clock and twenty minutes in the afternoon, the Speaker called the House to order.

Bill Read Second Time; Consideration Interrupted by Recess**H. 468**

Rep. Cheney of Norwich, for the committee on Natural Resources and Energy, to which had been referred House bill, entitled

An act relating to a renewable portfolio standard and the Sustainably Priced Energy Enterprise Development Program

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Renewable Energy; Goals; Definitions * * *

Sec. 1. 30 V.S.A. § 8001 is amended to read:

§ 8001. RENEWABLE ENERGY GOALS

(a) The general assembly finds it in the interest of the people of the state to promote the state energy policy established in section 202a of this title by:

(1) Balancing the benefits, lifetime costs, and rates of the state's overall energy portfolio to ensure that to the greatest extent possible the economic benefits of renewable energy in the state flow to the Vermont economy in general, and to the rate paying citizens of the state in particular.

(2) Supporting development of renewable energy and related planned energy industries in Vermont, and the jobs and economic benefits associated with such development, while retaining and supporting existing renewable energy infrastructure.

(3) Providing an incentive for the state's retail electricity providers to enter into affordable, long-term, stably priced renewable energy contracts that mitigate market price fluctuation for Vermonters.

(4) Developing viable markets for renewable energy and energy efficiency projects.

(5) Protecting and promoting air and water quality by means of renewable energy programs.

(6) Contributing to reductions in global climate change and anticipating the impacts on the state's economy that might be caused by federal regulation designed to attain those reductions.

(7) ~~Supporting and providing incentives for small, distributed renewable energy generation, including~~ Providing support and incentives that support locating such generation to locate renewable energy plants of small and moderate size in a manner that is distributed across the state's electric grid,

including locating such plants in areas that will provide benefit to the operation and management of the state's electric that grid through such means as reducing line losses and addressing transmission and distribution constraints.

(8) Promoting the inclusion, in Vermont's electric supply portfolio, of renewable energy plants that are diverse in plant capacity and type of renewable energy technology.

(b) The board shall provide, by order or rule, the regulations and procedures that are necessary to allow the board and the department to implement and supervise programs pursuant to this chapter.

Sec. 2. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

For purposes of this chapter:

* * *

(2) "Renewable energy" means energy produced using a technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate.

(A) For purposes of this subdivision (2), methane gas and other flammable gases produced by the decay of sewage treatment plant wastes or landfill wastes and anaerobic digestion of agricultural products, byproducts, or wastes shall be considered renewable energy resources, but no form of solid waste, other than agricultural or silvicultural waste, shall be considered renewable.

(B) For purposes of this subdivision (2), no form of nuclear fuel shall be considered renewable.

(C) The only portion of electricity produced by a system of generating resources that shall be considered renewable is that portion generated by a technology that qualifies as renewable under this subdivision (2).

(D) After conducting administrative proceedings, the board may add technologies or technology categories to the definition of "renewable energy," provided that technologies using the following fuels shall not be considered renewable energy supplies: coal, oil, propane, and natural gas.

(E) For the purposes of this chapter, renewable energy refers to either "existing renewable energy" or "new renewable energy."

(3) ~~“Existing renewable energy” means all types of renewable energy sold from the supply portfolio of a Vermont retail electricity provider that is not considered to be from a new renewable energy source produced by a plant that came into service prior to or on December 31, 2004.~~

(4) “New renewable energy” means renewable energy produced by a generating resource specific and identifiable plant coming into service after December 31, 2004.

~~(A) With respect to Energy from within a system of generating resources plants that includes renewable energy, the percentage of the system that constitutes shall not constitute new renewable energy shall be determined through dividing the plant capacity of the system’s generating resources coming into service after December 31, 2004 that produce renewable energy by the total plant capacity of the system, regardless of whether the system includes specific plants that came or come into service after December 31, 2004.~~

(B) “New renewable energy” also may include the additional energy from an existing renewable facility energy plant retrofitted with advanced technologies or otherwise operated, modified, or expanded to increase the kWh output of the facility plant in excess of an historical baseline established by calculating the average output of that facility plant for the 10-year period that ended December 31, 2004. If the production of new renewable energy through changes in operations, modification, or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions. ~~For the purposes of this chapter, renewable energy refers to either “existing renewable energy” or “new renewable energy.”~~

(5) ~~“Qualifying SPEED resources” means contracts for in-state resources in the SPEED program established under section 8005 of this title that meet the definition of new renewable energy under this section, whether or not renewable energy credits environmental attributes are attached.~~

(6) ~~“Nonqualifying SPEED resources” means contracts for in-state resources in the SPEED program established under section 8005 of this title that are fossil fuel-based, combined heat and power (CHP) facilities that sequentially produce both electric power and thermal energy from a single source or fuel. In addition, at least 20 percent of a facility’s fuel’s total recovered energy must be thermal and at least 13 percent must be electric, the design system efficiency (the sum of full load design thermal output and electric output divided by the heat input) must be at least 65 percent, and the~~

~~facility must meet air quality standards established by the agency of natural resources.~~

(7) “Energy conversion efficiency” means the effective use of energy and heat from a combustion process.

(7) “Environmental attributes” means the characteristics of a plant that enable the energy it produces to qualify as renewable energy and include any and all benefits of the plant to the environment such as avoided emissions or other impacts to air, water, or soil that may occur through the plant’s displacement of a nonrenewable energy source.

(8) “Tradeable renewable energy credits” means all of the environmental attributes associated with a single unit of energy generated by a renewable energy source where:

(A) those attributes are transferred or recorded separately from that unit of energy;

(B) the party claiming ownership of the tradeable renewable energy credits has acquired the exclusive legal ownership of all, and not less than all, the environmental attributes associated with that unit of energy; and

(C) exclusive legal ownership can be verified through an auditable contract path or pursuant to the system established or authorized by the board or any program for tracking and verification of the ownership of environmental attributes of energy legally recognized in any state and approved by the board.

(9) “Retail electricity provider” or “provider” means a company engaged in the distribution or sale of electricity directly to the public.

(10) “Board” means the public service board under section 3 of this title, except when used to refer to the clean energy development board.

(11) “Commissioned” or “commissioning” means the first time a plant is put into operation following initial construction or modernization if the costs of modernization are at least 50 percent of the costs that would be required to build a new plant including all buildings and structures technically required for the new plant’s operation. However, these terms shall not include activities necessary to establish operational readiness of a plant.

(12) “Plant” means ~~any~~ an independent technical facility that generates electricity from renewable energy. A group of newly constructed facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid.

* * *

(21) “Distributed renewable generation” means a renewable energy plant that is connected to the subtransmission or distribution system of a Vermont retail electricity provider and has a plant capacity of less than 5 MW.

(22) “Vermont composite electric utility system” means the combined generation, transmission, and distribution resources along with the combined retail load requirements of the Vermont retail electricity providers.

* * * Renewable Portfolio Standard * * *

Sec. 3. 30 V.S.A. § 8004 is amended to read:

§ 8004. RENEWABLE PORTFOLIO STANDARDS FOR SALES OF ELECTRIC ENERGY

(a) Environmental attributes; ownership. ~~Except as otherwise provided in section 8005 of this title, in order for Vermont retail electricity providers to To~~ achieve the goals established in section 8001 of this title, no retail electricity provider shall sell or otherwise provide or offer to sell or provide electricity in the state of Vermont without ownership of sufficient ~~energy produced by renewable resources as described in this chapter, or sufficient tradeable renewable energy credits that reflect the required renewable energy~~ environmental attributes as provided for in subsection (b) of this section. Such ownership may be demonstrated through possession of tradeable renewable energy credits; contracts for energy supplied by a plant to the provider if the provider’s purchase from the plant includes the energy’s environmental attributes; or both. In the case of members of the Vermont Public Power Supply Authority, the requirements of this chapter may be met in the aggregate.

(b) Amounts required; schedule.

(1) New renewable energy. Each retail electricity provider in Vermont shall ~~provide a certain amount of new renewable resources in its portfolio. Subject to subdivision 8005(d)(1) of this title each retail electricity provider in Vermont shall supply an amount of energy equal to its total incremental energy growth between January 1, 2005 and January 1, 2012 through the use of electricity generated by new renewable resources. The retail electricity provider may meet this requirement through eligible new renewable energy credits, new renewable energy resources with renewable energy credits still attached, or a combination of those credits and resources. No retail electricity provider shall be required to provide in excess of a total of 10 percent of its calendar year 2005 retail electric sales with electricity generated by new renewable resources~~ own the environmental attributes of new renewable

energy that is delivered or capable of delivery to Vermont in an amount that is not less than the percentages of its annual retail electric sales during each of the compliance periods shown on the table contained in this subdivision (b)(1).

<u>Compliance Period (begins January 1 of stated year)</u>	<u>SPEED Goal Not Met</u>	<u>SPEED Goal Met</u>
<u>Three years commencing 2014</u>	<u>4 percent</u>	<u>4 percent</u>
<u>Three years commencing 2017</u>	<u>11 percent</u>	<u>8 percent</u>
<u>Three years commencing 2020</u>	<u>17 percent</u>	<u>14 percent</u>
<u>Three years commencing 2023</u>	<u>22 percent</u>	<u>19 percent</u>
<u>Three years commencing 2026</u>	<u>26 percent</u>	<u>26 percent</u>
<u>Three years commencing 2029</u>	<u>31 percent</u>	<u>31 percent</u>
<u>Each year commencing 2032</u>	<u>35 percent</u>	<u>35 percent</u>

(A) If, pursuant to subdivision 8005(d)(1) (2017 SPEED goal) of this title, the board concludes that the goal of that subdivision has been met, then the percentages in the table column labeled “SPEED Goal Met” shall apply; otherwise, the percentages in the table column labeled “SPEED Goal Not Met” shall apply.

(B) A retail electricity provider shall meet the requirements of this subdivision (b)(1) in a manner reasonably consistent with subdivisions 8001(7) (small to moderate size plants; geographic distribution; benefit to electric system) and (8) (diversity of plant capacities and technologies) of this title.

(C) With respect to the compliance periods established in the table contained in this subdivision (b)(1), the board may allow a retail electricity provider to apply environmental attributes that are generated or purchased during a compliance period, and are in excess of the requirement for that period, toward meeting the requirement of the immediately succeeding compliance period. The board shall establish reasonable standards and limits to govern such application.

(2) Distributed renewable generation. Each retail electricity provider in Vermont shall own, in the amounts and allocations established under this

subdivision (b)(2), the environmental attributes of new renewable energy produced by distributed renewable generation owned by any Vermont retail electricity provider or under a contract of 10 or more years to any such provider.

(A) During each year commencing January 1, 2032, the amount established under this subdivision (b)(2) shall be not less than 10 percent of a provider's annual retail electric sales.

(B) Between the effective date of this subdivision (b)(2) and January 1, 2032, the amount established under this subdivision (b)(2) shall be determined by the board. During this period, the board shall require each retail electricity provider to own the environmental attributes of eligible distributed renewable generation in increasing amounts such that each provider achieves compliance, by January 1, 2032, with the requirements of subdivision (2)(A) (2032; 10 percent) of this subsection. The board shall ensure that this determination is consistent with the pace and implementation of the standard offer program under section 8005a of this title.

(C) The board shall allocate the amounts established under this subdivision (b)(2) among different categories of renewable energy technologies. These categories shall include at least each of the following: methane derived from an agricultural operation; methane derived from a landfill; solar power; wind power with a plant capacity of 100 kW or less; wind power with a plant capacity greater than 100 kW; hydroelectric power; and biomass power using a fuel other than methane derived from an agricultural operation or landfill. In making these allocations, the board shall take into account the provisions of section 8005a (standard offer) of this title.

(D) For the purpose of this subdivision (b)(2), all net metering systems under section 219a of this title shall be considered to be under a contract of 10 or more years with the net metering customer's retail electricity provider.

(E) Energy produced by a plant used to satisfy this subdivision (b)(2) shall be applied to the requirements of subdivision (b)(1) of this section.

(F) A provider shall be exempt from the requirements of this subdivision (2) if the provider is exempt from the standard offer purchase requirements under subdivision 8005a(k)(2) of this title.

~~(c) The requirements of subsection (b) of this section shall apply to all retail electricity providers in this state, unless the retail electricity provider demonstrates and the board determines that compliance with the standard would impair the provider's ability to meet the public's need for energy~~

~~services after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs~~ Use of SPEED power. The use of energy from a plant to satisfy the requirements of section 8005 of this title shall not preclude the use of the same energy to satisfy the requirements of this section, as long as the provider possesses the energy's environmental attributes.

(d) Regulations and procedures. The board shall provide, by order or rule, the regulations and procedures that are necessary to allow the board and the department to implement and supervise further the implementation and maintenance of a renewable portfolio standard.

(e) Alternative compliance payments. In lieu of, ~~or in addition to~~ purchasing tradeable renewable energy credits to satisfy the portfolio requirements of this section, a retail electricity provider in this state may pay to the Vermont clean energy development fund established under section 8015 of this title an amount not less than the number of kWh necessary to bring the provider's portfolio into compliance with those requirements multiplied by a rate per kWh as established by the board. ~~As an alternative, the board may require any proportion of this amount to be paid to the energy conservation fund established under subsection 209(d) of this title.~~

(f) ~~Before December 30, 2007 and biennially thereafter through December 30, 2013, the board shall file a report with the senate committees on finance and on natural resources and energy and the house committees on commerce and on natural resources and energy. The report shall include the following:~~

~~(1) the total cumulative growth in electric energy usage in Vermont from 2005 through the end of the year that precedes the date on which the report is due;~~

~~(2) a report on the market for tradeable renewable energy credits, including the prices at which credits are being sold;~~

~~(3) a report on the SPEED program, and any projects using the program;~~

~~(4) a summary of other contracts held or projects developed by Vermont retail electricity providers that are likely to be eligible under the provisions of subsection 8005(d) of this title;~~

~~(5) an estimate of potential effects on rates, economic development and jobs, if the target established in subsection 8005(d) of this section is met, and if it is not met;~~

~~(6) an assessment of the supply portfolios of Vermont retail electricity providers, and the resources available to meet new supply requirements likely to be triggered by the expiration of major power supply contracts;~~

~~(7) an assessment of the energy efficiency and renewable energy markets and recommendations to the legislature regarding strategies that may be necessary to encourage the use of these resources to help meet upcoming supply requirements;~~

~~(8) any recommendations for statutory change related to this section, including recommendations for rewarding utilities that make substantial investments in SPEED resources; and~~

~~(9) the board's recommendations on how the state might best continue to meet the goals established in section 8001 of this title, including whether the state should meet its growth in energy usage over the succeeding 10 years by a continuation of the SPEED program.~~

* * * SPEED Program; General * * *

Sec. 4. 30 V.S.A. § 8005 is amended to read:

§ 8005. SUSTAINABLY PRICED ENERGY ENTERPRISE DEVELOPMENT (SPEED) PROGRAM; TOTAL RENEWABLES TARGETS

(a) ~~In order to~~ Creation. To achieve the goals of section 8001 of this title, there is created the Sustainably Priced Energy Enterprise Development (SPEED) program. ~~The SPEED program shall have two categories of projects: qualifying SPEED resources and nonqualifying SPEED resources.~~

(b) Board; powers and duties. The SPEED program shall be established, by rule, order, or contract, by the board. As part of the SPEED program, the board may, and in the case of subdivisions (1), (2), and (5) of this subsection, shall:

(1) Name one or more entities to become engaged in the purchase and resale of electricity generated within the state by means of ~~qualifying SPEED resources or nonqualifying SPEED resources, and shall implement the standard offer required by subdivision (2) of this subsection through this entity or entities.~~ An entity appointed under this subdivision shall be known as a SPEED facilitator.

(2) Issue standard offers for ~~qualifying SPEED resources with a plant capacity of 2.2 MW or less in accordance with section 8005a of this title.~~ These standard offers shall be available until the cumulative plant capacity of all such resources commissioned in the state that have accepted a standard

~~offer under this subdivision (2) equals or exceeds 50 MW; provided, however, that a plant owned and operated by a Vermont retail electricity provider shall count toward this 50 MW ceiling if the plant has a plant capacity of 2.2 MW or less and is commissioned on or after September 30, 2009. The term of a standard offer required by this subdivision (2) shall be 10 to 20 years, except that the term of a standard offer for a plant using solar power shall be 10 to 25 years. The price paid to a plant owner under a standard offer required by this subdivision shall include an amount for each kWh generated that shall be set as follows:~~

~~(A) Until the board determines the price to be paid to a plant owner in accordance with subdivision (2)(B) of this subsection, the price shall be:~~

~~(i) For a plant using methane derived from a landfill or an agricultural operation, \$0.12 per kWh.~~

~~(ii) For a plant using wind power that has a plant capacity of 15 kW or less, \$0.20 per kWh.~~

~~(iii) For a plant using solar power, \$0.30 per kWh.~~

~~(iv) For a plant using hydropower, wind power with a plant capacity greater than 15 kW, or biomass power that is not subject to subdivision (2)(A)(i) of this subsection, a price equal, at the time of the plant's commissioning, to the average residential rate per kWh charged by all of the state's retail electricity providers weighted in accordance with each such provider's share of the state's electric load.~~

~~(B) In accordance with the provisions of this subdivision, the board by order shall set the price to be paid to a plant owner under a standard offer, including the owner of a plant described in subdivisions (2)(A)(i)-(iv) of this subsection.~~

~~(i) The board shall use the following criteria in setting a price under this subdivision:~~

~~(I) The board shall determine a generic cost, based on an economic analysis, for each category of generation technology that constitutes renewable energy. In conducting such an economic analysis the board shall:~~

~~(aa) Include a generic assumption that reflects reasonably available tax credits and other incentives provided by federal and state governments and other sources applicable to the category of generation technology. For the purpose of this subdivision (2)(B), the term "tax credits and other incentives" excludes tradeable renewable energy credits.~~

~~(bb) Consider different generic costs for subcategories of different plant capacities within each category of generation technology.~~

~~(II) The board shall include a rate of return on equity not less than the highest rate of return on equity received by a Vermont investor-owned retail electric service provider under its board-approved rates as of the date a standard offer goes into effect.~~

~~(III) The board shall include such adjustment to the generic costs and rate of return on equity determined under subdivisions (2)(B)(i)(I) of this subsection as the board determines to be necessary to ensure that the price provides sufficient incentive for the rapid development and commissioning of plants and does not exceed the amount needed to provide such an incentive.~~

~~(ii) No later than September 15, 2009, the board shall open and complete a noncontested case docket to accomplish each of the following tasks:~~

~~(I) Determine whether there is a substantial likelihood that one or more of the prices stated in subdivision (2)(A) of this subsection do not constitute a reasonable approximation of the price that would be paid applying the criteria of subdivision (2)(B)(i).~~

~~(II) If the board determines that one or more of the prices stated in subdivision (2)(A) of this subsection do not constitute such an approximation, set interim prices that constitute a reasonable approximation of the price that would be paid applying the criteria of subdivision (2)(B)(i). Once the board sets such an interim price, that interim price shall be used in subsequent standard offers until the board sets prices under subdivision (2)(B)(iii) of this subsection.~~

~~(iii) Regardless of its determination under subdivision (2)(B)(ii) of this subsection, the board shall proceed to set, no later than January 15, 2010, the price to be paid to a plant owner under a standard offer applying the criteria of subdivision (2)(B)(i) of this subsection.~~

~~(C) On or before January 15, 2012 and on or before every second January 15 after that date, the board shall review the prices set under subdivision (2)(B) of this subsection and determine whether such prices are providing sufficient incentive for the rapid development and commissioning of plants. In the event the board determines that such a price is inadequate or excessive, the board shall reestablish the price, in accordance with the requirements of subdivision (2)(B)(i) of this subsection, for effect on a prospective basis commencing two months after the price has been reestablished.~~

~~(D) Once the board determines, under subdivision (2)(B) or (C) of this subsection, the generic cost and rate of return elements for a category of renewable energy, the price paid to a plant owner under a subsequently executed standard offer contract shall comply with that determination.~~

~~(E) A plant owner who has executed a contract for a standard offer under this section prior to a determination by the board under subdivision (2)(B) or (C) of this subsection shall continue to receive the price agreed on in that contract.~~

~~(F) Notwithstanding any other provision of this section, on and after June 8, 2010, a standard offer shall be available for a qualifying existing plant.~~

~~(i) For the purpose of this subdivision, "qualifying existing plant" means a plant that meets all of the following:~~

~~(I) The plant was commissioned on or before September 30, 2009.~~

~~(II) The plant generates electricity using methane derived from an agricultural operation and has a plant capacity of 2.2 MW or less.~~

~~(III) On or before September 30, 2009, the plant owner had a contract with a Vermont retail electricity provider to supply energy or attributes, including tradeable renewable energy credits from the plant, in connection with a renewable energy pricing program approved under section 8003 of this title.~~

~~(ii) Plant capacity of a plant accepting a standard offer pursuant to this subdivision (2)(F) shall not be counted toward the 50 MW amount under this subsection (b).~~

~~(iii) Award of a standard offer under this subdivision (2)(F) shall be on condition that the plant owner and the retail electricity provider agree to modify any existing contract between them described under subdivision (i)(III) of this subdivision (2)(F) so that the contract no longer requires energy from the plant to be provided to the retail electricity provider. Those provisions of such a contract that concern tradeable renewable energy credits associated with the plant may remain in force.~~

~~(iv) The price and term of a standard offer contract under this subdivision (2)(F) shall be the same, as of the date such a contract is executed, as the price and term otherwise in effect under this subsection (b) for a plant that uses methane derived from an agricultural operation.~~

~~(G) Notwithstanding the requirement of this subsection (b) that a standard offer be available for qualifying SPEED resources, the board shall make a standard offer available under this subdivision (2) to an existing hydroelectric plant that does not exceed the 2.2 MW plant capacity limit of this subsection. To such plants, the board shall not allocate more of the cumulative 50 MW plant capacity under this subdivision (2) than exceeds the amount of such capacity that is unsubscribed as of January 1, 2012. Before making this standard offer available, the board shall notify potentially eligible plants known to it and shall publish broad public notice of the future availability of the standard offer. The notice shall direct that all potentially eligible plants shall file with the board a statement of interest in the standard offer by a date to be no less than 30 days from the date of the notice. No plant may participate in this standard offer unless it timely files such a statement. The filing of such a statement shall constitute the consent of the plant owner to produce such information as the board may reasonably require to carry out this subdivision (2)(G), including information the board deems necessary to determine a generic cost in setting the price. The board shall have authority to require the production of such information from a plant that files a statement of interest. For the purpose of this subdivision (2)(G):~~

~~(i) "Existing hydroelectric plant" means a hydroelectric plant located in the state that was in service as of January 1, 2009 and does not, as of the effective date of this subdivision (2)(G), have an agreement with the board's purchasing agent for the purchase of its power pursuant to subdivision 209(a)(8) of this title and board rules adopted under that subdivision. The term includes hydroelectric plants that have never had such an agreement and hydroelectric plants for which such an agreement expired prior to May 25, 2011.~~

~~(ii) The provisions of subdivisions (2)(B)(i)(I)-(III) of this subsection (standard offer pricing criteria) shall apply, except that:~~

~~(I) The term "generic cost," when applied by the board to determine the price of a standard offer for an existing hydroelectric plant, shall mean the cost to own, reliably operate, and maintain such a plant for the duration of the standard offer contract. In determining this cost, the board shall consider including a generic assumption with respect to rehabilitation costs based on relevant factors such as the age of the potentially eligible plants; recently constructed or currently proposed rehabilitations to such plants; the investment that a reasonably prudent person would have made in such a plant to date under the circumstances of the plant, including the price received for power; and the availability for such a plant of improved technology.~~

~~(II) The incentive described under subdivision (2)(B)(i)(III) of this subsection shall be an incentive for continued safe, efficient, and reliable operation of existing hydroelectric plants.~~

(3) Maximize the benefit to rate payers from the sale of tradeable renewable energy credits or other credits that may be developed in the future, ~~especially with regard to those plants that accept the standard offer issued under subdivision (2) of this subsection.~~

(4) Encourage retail electricity provider and third party developer sponsorship and partnerships in the development of in-state renewable energy projects.

(5) ~~Require~~ In accordance with section 8005a of this section, require all Vermont retail electricity providers to purchase from the SPEED facilitator, ~~in accordance with subdivision (g)(2) of this section,~~ the power generated by the plants that accept the standard offer required to be issued under ~~subdivision (2) of this subsection~~ section 8005a. For the purpose of this subdivision (5), the board and the SPEED facilitator constitute instrumentalities of the state.

(6) Establish a method for Vermont retail ~~electrical~~ electricity providers to obtain beneficial ownership of the renewable energy credits associated with any SPEED projects, ~~in the event that a renewable portfolio standard comes into effect under the provisions of section 8004 of this title. It shall be a condition of a standard offer required to be issued under subdivision (2) of this subsection that tradeable renewable energy credits associated with a plant that accepts the standard offer are owned by the retail electric providers purchasing power from the plant, except that in the case of a plant using methane from agricultural operations, the plant owner shall retain such credits to be sold separately at the owner's discretion.~~

(7) ~~Create a mechanism by which a retail electricity provider may establish that it has a sufficient amount of renewable energy, or resources that would otherwise qualify under the provisions of subsection (d) of this section, in its portfolio so that equity requires that the retail electricity provider be relieved, in whole or in part, from requirements established under this subsection that would require a retail electricity provider to purchase SPEED power, provided that this mechanism shall not apply to the requirement to purchase power under subdivision (5) of this subsection. However, a retail electricity provider that establishes that it receives at least 25 percent of its energy from qualifying SPEED resources that were in operation on or before September 30, 2009, shall be exempt and wholly relieved from the requirements of subdivisions (b)(5) (requirement to purchase standard offer~~

~~power) and (g)(2) (allocation of standard offer electricity and costs) of this section. [Repealed.]~~

(8) Provide that in any proceeding under subdivision 248(a)(2)(A) of this title for the construction of a renewable energy plant, a demonstration of compliance with subdivision 248(b)(2) of this title, relating to establishing need for the facility plant, shall not be required if the facility plant is a SPEED resource and if no part of the facility plant is financed directly or indirectly through investments, other than power contracts, backed by Vermont electricity ratepayers.

(9) Take such other measures as the board finds necessary or appropriate to implement SPEED.

(c) VEDA; eligible facilities. Developers of ~~qualifying and nonqualifying in-state~~ SPEED resources shall be entitled to classification as an eligible facility under ~~chapter 12 of Title 10 V.S.A. chapter 12~~, relating to the Vermont Economic Development Authority.

(d) Goals and targets. To advance the goals stated in section 8001 of this title, the following goals and targets are established.

~~(1) The board shall meet on or before January 1, 2012 and open a proceeding to determine the total amount of qualifying SPEED resources that have been supplied to Vermont retail electricity providers or have been issued a certificate of public good. If the board finds that the amount of qualifying SPEED resources coming into service or having been issued a certificate of public good after January 1, 2005 and before July 1, 2012 equals or exceeds total statewide growth in electric retail sales during that time, and in addition, at least five percent of the 2005 total statewide electric retail sales is provided by qualified SPEED resources or would be provided by qualified SPEED resources that have been issued a certificate of public good, or if it finds that the amount of qualifying SPEED resources equals or exceeds 10 percent of total statewide electric retail sales for calendar year 2005, the portfolio standards established under this chapter shall not be in force. The board shall make its determination by January 1, 2013. If the board finds that the goal established has not been met, one year after the board's determination the portfolio standards established under subsection 8004(b) of this title shall take effect.~~

~~(2)(1) 2017 SPEED Goal.~~ A state goal is to assure that 20 percent of total statewide electric retail sales ~~before July 1, 2017 during the year commencing January 1, 2017~~ shall be generated by SPEED resources that constitute new renewable energy. ~~The board shall report to the house and senate committees on natural resources and energy and to the joint energy~~

~~committee by December 31, 2011 with regard to the state's progress in meeting this goal. In addition, the board shall report to the house and senate committees on natural resources and energy and to the joint energy committee by December 31, 2013 with regard to the state's progress in meeting this goal and, if necessary, shall include any appropriate recommendations for measures that will make attaining the goal more likely. On or before January 31, 2018, the board shall meet and open a proceeding to determine, for the calendar year 2017, the total amount of SPEED resources that were supplied to Vermont retail electricity providers and the total amount of statewide retail electric sales.~~

~~(3) For the purposes of the determination to be made under this subsection, subdivision (d)(1), the total amount of SPEED resources shall be the amount of electricity produced at all facilities SPEED resources owned by or under long-term contract to Vermont retail electricity providers, whether it is generated inside or outside Vermont, that is new renewable energy shall be counted in the calculations under subdivisions (1) and (2) of this subsection. A conclusion by the board that the goal of this subdivision has been met shall have the effect stated in subdivision 8004(b)(1)(A) (RPS percentages; SPEED goal) of this title.~~

(2) Total renewables targets. This subdivision establishes, as percentages of annual electric sales, target amounts of total renewable energy within the supply portfolio of each renewable electricity provider.

(A) The target amounts of total renewable energy established by this subsection shall be 55 percent of each retail electricity provider's annual electric sales during the year beginning January 1, 2017, increasing by an additional four percent each third January 1 thereafter, until reaching 75 percent on and after January 1, 2032.

(B) Energy and environmental attributes used to satisfy the requirements of section 8004 (renewable portfolio standards) of this title shall apply toward meeting the target amounts established by this subdivision (2). The balance of these target amounts shall be met with SPEED resources.

(C) Each retail electricity provider shall manage its supply portfolio to be reasonably consistent with the target amounts established by this subdivision (2). The board shall consider such consistency during the course of reviewing a retail electricity provider's charges and rates under this title, integrated resource plans under section 218c of this title, and petitions under section 248 (new gas and electric purchases, investments, and facilities) of this title. However, nothing in this subdivision (2) shall relieve a retail electricity

provider from the obligations of section 8004 (renewable portfolio standards) of this title.

(e) Regulations and procedures. The board shall provide, by order or rule, the regulations and procedures that are necessary to allow the board and the department to implement, and to supervise further the implementation and maintenance of the SPEED program. These rules shall assure that decisions with respect to certificate of public good applications for construction of SPEED resources shall be made in a timely manner.

(f) Preapproval. In order to encourage joint efforts on the part of regulated companies to purchase power that meets or exceeds the SPEED standards and to secure stable, long-term contracts beneficial to Vermonters, the board may establish standards for pre-approving the recovery of costs incurred on a SPEED project that is the subject of that joint effort.

~~(g) With respect to executed contracts for standard offers under this section:~~

~~(1) Such a contract shall be transferable. The contract transferee shall notify the SPEED facilitator of the contract transfer within 30 days of transfer.~~

~~(2) The SPEED facilitator shall distribute the electricity purchased to the Vermont retail electricity providers at the price paid to the plant owners, allocated to the providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay the SPEED facilitator for the electricity.~~

~~(3) The SPEED facilitator shall transfer any tradeable renewable energy credits attributable to electricity purchased under standard offer contracts to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (2) of this subsection, except that in the case of a plant using methane from agricultural operations, the plant owner shall retain such credits to be sold separately at the owner's discretion.~~

~~(4) The SPEED facilitator shall transfer all capacity rights attributable to the plant capacity associated with the electricity purchased under standard offer contracts to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (2) of this subsection.~~

~~(5) All reasonable costs of a Vermont retail electricity provider incurred under this subsection shall be included in the provider's revenue requirement for purposes of ratemaking under sections 218, 218d, 225, and 227 of this title. In including such costs, the board shall appropriately account for any credits~~

~~received under subdivisions (2) and (3) of this subsection. Costs included in a retail electricity provider's revenue requirement under this subdivision shall be allocated to the provider's ratepayers as directed by the board.~~

~~(h) With respect to standard offers under this section, the board shall by rule or order:~~

~~(1) Determine a SPEED facilitator's reasonable expenses arising from its role and the allocation of such expenses among plant owners and Vermont retail electricity providers.~~

~~(2) Determine the manner and timing of payments by a SPEED facilitator to plant owners for energy purchased under an executed contract for a standard offer.~~

~~(3) Determine the manner and timing of payments to the SPEED facilitator by the Vermont retail electricity providers for energy distributed to them under executed contracts for standard offers.~~

~~(4) Establish reporting requirements of a SPEED facilitator, a plant owner, and a Vermont retail electricity provider.~~

~~(i) With respect to standard offers under this section, the board shall determine whether its existing rules sufficiently address metering and the allocation of metering costs, and make such rule revisions as needed to implement the standard offer requirements of this section.~~

~~(j) Wood biomass resources that would otherwise constitute qualifying SPEED resources may receive a standard offer under subdivision (b)(2) of this section only if they have a design system efficiency (the sum of full load design thermal output and electric output divided by the heat input) of at least 50 percent.~~

~~(k) A Vermont retail electricity provider shall not be eligible for a standard offer contract under subdivision (b)(2) of this section. However, under subdivision (g)(1) of this section, a plant owner may transfer to such a provider all rights associated with a standard offer contract that has been offered to the plant without affecting the plant's status under the standard offer program. In the case of such a transfer of rights, the plant shall not be considered a utility-owned and operated plant under subdivisions (b)(2) and (g)(2) of this section.~~

~~(l) The existence of a standard offer under subdivision (b)(2) of this section shall not preclude a voluntary contract between a plant owner and a Vermont retail electricity provider on terms that may be different from those under the standard offer. A plant owner who declines a voluntary contract may still accept a standard offer under this section.~~

~~(m) State; nonliability.~~ The state and its instrumentalities shall not be liable to a plant owner or retail electricity provider with respect to any matter related to SPEED, including costs associated with a standard offer contract under this section or section 8005a of this title or any damages arising from breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid.

~~(n) On or before January 15, 2011 and every second January 15 afterward, the board shall report to the house and senate committees on natural resources and energy concerning the status of the standard offer program under this section. In its report, the board at a minimum shall:~~

~~(1) Assess the progress made toward attaining the cumulative statewide capacity ceiling stated in subdivision (b)(2) of this section.~~

~~(2) If that cumulative statewide capacity ceiling has not been met, identify the barriers to attaining that ceiling and detail the board's recommendations for overcoming such barriers.~~

~~(3) If that cumulative statewide capacity has been met or is likely to be met within a year of the date of the board's report, recommend whether the standard offer program under this section should continue and, if so, whether there should be any modifications to the program.~~

* * * SPEED Program; Standard Offer * * *

Sec. 5. 30 V.S.A. § 8005a is added to read:

§ 8005a. SPEED; STANDARD OFFER PROGRAM

(a) Establishment. A standard offer program is established within the SPEED program. To achieve the goals of section 8001 of this title, the board shall issue standard offers for renewable energy plants that meet the eligibility requirements of this section. The board shall implement these standard offers through the SPEED facilitator.

(b) Eligibility. To be eligible for a standard offer under this section, a plant must constitute a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, must not be a net metering system under section 219a of this title, and must be a new standard offer plant. For the purpose of this section, "new standard offer plant" means a renewable energy plant that is located in Vermont, that has a plant capacity of 2.2 MW or less, and that is commissioned on or after September 30, 2009.

(c) Cumulative capacity. In accordance with this subsection, the board shall issue standard offers to new standard offer plants until a cumulative plant capacity amount of 150 MW is reached.

(1) Pace. Annually commencing April 1, 2013, the board shall increase the cumulative plant capacity of the standard offer program by 10 MW until the 150-MW cumulative plant capacity of this subsection (c) is reached (the 10-MW annual increase).

(A) Of this 10-MW annual increase, 2.5 MW shall be reserved for new standard offer plants proposed by Vermont retail electricity providers (the 2.5-MW provider block) and 7.5 MW shall be reserved for new standard offer plants proposed by persons who are not providers (the 7.5-MW independent developer block).

(B) If the 2.5-MW provider block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the 10-MW annual increase for each following year until that capacity is subscribed and shall be made available to new standard offer plants proposed by persons who are not providers.

(C) If the 7.5-MW independent developer block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the 10-MW annual increase for each following year until that capacity is subscribed and:

(i) Shall be made available to new standard offer plants proposed by persons who are not providers; and

(ii) May be made available to a provider following a written request and specific proposal submitted to and approved by the board.

(2) Technology allocations. The board shall allocate the 150-MW cumulative plant capacity of this subsection among different categories of renewable energy technologies. These categories shall include at least each of the following: methane derived from a landfill; solar power; wind power with a plant capacity of 100 kW or less; wind power with a plant capacity greater than 100 kW; hydroelectric power; and biomass power using a fuel other than methane derived from an agricultural operation or landfill. The categories and allocations reasonably shall correspond to those developed by the board for the same renewable energy technologies to implement subdivision 8004(b)(2) of this title (renewable portfolio standard; distributed renewable generation).

(d) Plants outside cumulative capacity. The following categories of plants shall not count toward the cumulative capacity amount of subsection (c) of this section, and the board shall make standard offers available to them provided that they are otherwise eligible for such offers under this section:

(1) Plants using methane derived from an agricultural operation.

(2) New standard offer plants that the board determines will have substantial benefits to the operation and management of the electric grid because of their design, characteristics, and location. To enhance the ability of new standard offer plants to mitigate transmission and distribution constraints, the board shall require Vermont retail electricity providers to make sufficient information concerning these constraints available to developers who propose new standard offer plants. Nothing in this subdivision shall require the disclosure of information in contravention of federal law.

(e) Term. The term of a standard offer required by this section shall be 10 to 20 years, except that the term of a standard offer for a plant using solar power shall be 10 to 25 years.

(f) Price. The categories of renewable energy for which the board shall set standard offer prices shall include at least each of the categories established pursuant to subdivision (c)(2) of this section. The board by order shall set the price paid to a plant owner under a standard offer required by this section that shall include an amount for each kWh generated and that shall vary by category of renewable energy. The board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25.

(1) Avoided cost. Except as provided in subdivision (2) of this subsection, the price paid for each category of renewable energy shall be the avoided cost of the Vermont composite electric utility system.

(A) For the purpose of this subsection (f), the term “avoided cost” means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase through the standard offer, such providers would obtain from distributed renewable generation that uses the same generation technology as the category of renewable energy for which the board is setting the price. For the purpose of this subsection (f), the term “avoided cost” also includes the board’s consideration of each of the following:

(i) The relevant cost data of the Vermont composite electric utility system.

(ii) The terms of the contract, including the duration of the obligation.

(iii) The availability, during the system’s daily and seasonal peak periods, of capacity or energy purchased through the standard offer, and the estimated savings from mitigating peak load.

(iv) The relationship of the availability of energy or capacity purchased through the standard offer to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(v) The costs or savings resulting from variations in line losses and other impacts to the transmission or distribution system from those that would have existed in the absence of purchases through the standard offer.

(vi) The supply and cost characteristics of plants eligible to receive the standard offer.

(B) The board shall establish the first set of avoided cost prices under this subdivision (1) no later than March 1, 2013 for effect on April 1, 2013. Annually thereafter, the board shall review the prices previously set under this subdivision (1) and determine whether such prices remain in compliance with the criteria of subdivision (1)(A) of this subsection. In the event the board determines that such a price must be revised to comply with those criteria, the board shall reestablish the price in accordance with the criteria for effect on a prospective basis commencing one month after the price has been reestablished. Once a standard offer price established or reestablished under this subdivision (1) goes into effect, the price set out in a subsequently executed standard offer contract shall comply with the most recently established price.

(2) Market-based mechanisms. For new standard offer projects, in the alternative to the pricing mechanism described under subdivision (1) (avoided costs) of this subsection, the board may use a market-based mechanism, such as a reverse auction or other procurement tool, to obtain a particular amount of a category of renewable energy, if it first finds that:

(A) Use of the mechanism is consistent with applicable federal law.

(B) Use of the mechanism is reasonably likely to result in prices sufficient to encourage the deployment of new standard offer projects within the applicable category of renewable energy.

(C) Use of the mechanism is reasonably likely to result in prices lower than the price that would apply under subdivision (1) of this subsection.

(3) Price stability. Once a plant owner has executed a contract for a standard offer under this section, the plant owner shall continue to receive the price agreed on in that contract regardless of whether the board subsequently changes the price applicable to the plant's category of renewable energy.

(g) Qualifying existing agricultural plants. Notwithstanding any other provision of this section, on and after June 8, 2010, a standard offer shall be

available for a qualifying existing plant as defined in Sec. 3 of No. 159 of the Acts of the 2009 Adj. Sess. (2010) (Act 159). The provisions of 30 V.S.A. § 8005(b)(2), as they existed on June 4, 2010, the effective date of Act 159, shall govern a standard offer under this subsection. Standard offers for these plants shall not be subject to subsection (c) of this section (cumulative capacity; new standard offer plants).

(h) Application process. The board shall administer the process of applying for and obtaining a standard offer contract in a manner that ensures that the resources and capacity of the standard offer program are used for plants that are reasonably likely to achieve commissioning.

(i) Interconnection application. No contract under this section for a new standard offer plant shall be executed unless and until the plant owner submits a complete application to interconnect the plant to the subtransmission or distribution system of the applicable retail electricity provider.

(j) Termination; reallocation. In the event a proposed plant accepting a standard offer fails to meet the requirements of the program in a timely manner, the plant's standard offer contract shall terminate, and any capacity reserved for the plant within the program shall be reallocated to one or more eligible plants.

(1) For the purpose of this subsection, the requirements of the program shall include commissioning of all new standard offer plants, except plants using methane derived from an agricultural operation, within the following periods after execution of the plant's standard offer contract:

(A) 24 months if the plant is solar power or is wind power with a plant capacity of 100 kW or less; and

(B) 36 months if the plant uses a fuel source not described in subdivision 1(A) of this subsection (j) or is wind power of greater than 100 kW capacity.

(2) At the request of a plant owner, the board may extend a period described in subdivision (1) of this subsection (j) if it finds that the plant owner has proceeded diligently and in good faith and that commissioning of the plant has been delayed because of litigation or appeal or because of the need to obtain an approval the timing of which is outside the board's control.

(k) Executed standard offer contracts; transferability; allocation of benefits and costs. With respect to executed contracts for standard offers under this section:

(1) A contract shall be transferable. The contract transferee shall notify the SPEED facilitator of the contract transfer within 30 days of transfer.

(2) The SPEED facilitator shall distribute the electricity purchased to the Vermont retail electricity providers at the price paid to the plant owners, allocated to the providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay the SPEED facilitator for the electricity. However, during any given calendar year, a retail electricity provider shall be exempt and wholly relieved from the requirements of this subdivision and subdivision 8005(b)(5) (requirement to purchase standard offer power) of this title if, during the immediately preceding 12-month period ending October 31, the amount of renewable energy supplied to the provider by generation owned by or under contract to the provider, regardless of whether the provider owned the energy's environmental attributes, was not less than the amount of energy sold by the provider to its retail customers.

(3) The SPEED facilitator shall transfer the environmental attributes, including any tradeable renewable energy credits, of electricity purchased under standard offer contracts to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (2) of this subsection (k), except that in the case of a plant using methane from agricultural operations, the plant owner shall retain such attributes and credits to be sold separately at the owner's discretion. Environmental attributes transferred to a retail electricity provider under this section shall be included in assessing the provider's compliance with section 8004 (renewable portfolio standards) of this title.

(4) The SPEED facilitator shall transfer all capacity rights attributable to the plant capacity associated with the electricity purchased under standard offer contracts to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (2) of this subsection (k).

(5) All reasonable costs of a Vermont retail electricity provider incurred under this subsection shall be included in the provider's revenue requirement for purposes of ratemaking under sections 218, 218d, 225, and 227 of this title. In including such costs, the board shall appropriately account for any credits received under subdivisions (3) and (4) of this subsection (k). Costs included in a retail electricity provider's revenue requirement under this subdivision shall be allocated to the provider's ratepayers as directed by the board.

(l) SPEED facilitator; expenses; payments. With respect to standard offers under this section, the board shall by rule or order:

(1) Determine a SPEED facilitator's reasonable expenses arising from its role and the allocation of the expenses among plant owners and Vermont retail electricity providers.

(2) Determine the manner and timing of payments by a SPEED facilitator to plant owners for energy purchased under an executed contract for a standard offer.

(3) Determine the manner and timing of payments to the SPEED facilitator by the Vermont retail electricity providers for energy distributed to them under executed contracts for standard offers.

(4) Establish reporting requirements of a SPEED facilitator, a plant owner, and a Vermont retail electricity provider.

(m) Metering. With respect to standard offers under this section, the board shall make rule revisions concerning metering and the allocation of metering costs as needed to implement the standard offer requirements of this section.

(n) Wood biomass. Wood biomass resources that would otherwise constitute qualifying SPEED resources may receive a standard offer under this section only if they have a design system efficiency (the sum of full load design thermal output and electric output divided by the heat input) of at least 50 percent.

(o) Voluntary contracts. The existence of a standard offer under this section shall not preclude a voluntary contract between a plant owner and a Vermont retail electricity provider on terms that may be different from those under the standard offer. A plant owner who declines a voluntary contract may still accept a standard offer under this section.

Sec. 6. STANDARD OFFER; PRIOR CAPACITY; INTERCONNECTION APPLICATION

(a) Prior capacity included. In Sec. 5 (SPEED; standard offer program) of this act, the cumulative capacity amount of 150 MW contained in 30 V.S.A. § 8005a(c) includes the 50 MW of capacity previously authorized for the standard offer program under 30 V.S.A. § 8005(b)(2) as it existed immediately prior to the effective date of Sec. 5. Portions of this previously authorized 50-MW capacity that become available after that effective date shall be made immediately available to other eligible new standard offer projects, as defined in Sec. 5 of this act, in addition to the 10-MW annual increase under 30 V.S.A. § 8005a(c)(1) (standard offer; pace). Such capacity:

(1) Shall be made available to new standard offer plants proposed by persons who are not providers; and

(2) May be made available to a provider following a written request and specific proposal submitted to and approved by the board.

(b) Prior capacity; pricing. In a standard offer contract under 30 V.S.A. chapter 89, the board shall use the price that would apply under 30 V.S.A. § 8005(b)(2) as it existed immediately prior to the effective date of Sec. 5 (SPEED; standard offer program) of this act, if both of the following apply:

(1) The contract pertains to capacity within the standard offer program as it existed immediately prior to that effective date.

(2) The capacity becomes available and the contract is executed prior to April 1, 2013.

(c) Interconnection application.

(1) No later than September 1, 2012, each owner of a new standard offer plant, as defined in Sec. 5 of this act, that executed or executes a standard offer contract under 30 V.S.A. chapter 89 prior to the effective date of this section shall submit a complete application to interconnect the plant to the subtransmission or distribution system of the applicable retail electricity provider. Failure to file such an application or to remit any required interconnection fees or deposits shall terminate the contract.

(2) The purpose of this subsection is to provide assurance that any reserved capacity within the standard offer program under 30 V.S.A. chapter 89 is allocated to proposed plants that are likely to be commissioned within the meaning of 30 V.S.A. § 8002.

* * * Renewable Energy; Reporting * * *

Sec. 7. 30 V.S.A. § 8005b is added to read:

§ 8005b. RENEWABLE ENERGY PROGRAMS; BIENNIAL REPORT

(a) On or before January 15, 2013 and no later than every second January 15 thereafter through January 15, 2033, the board shall file a report with the general assembly in accordance with this section. The board shall prepare the report in consultation with the department. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(b) The report under this section shall include at least each of the following:

(1) The retail sales, in kWh, of electricity in Vermont during the preceding calendar year. The report shall include the statewide total and the total sold by each retail electricity provider.

(2) The amount of environmental attributes of renewable energy owned by the Vermont retail electricity providers, expressed as a percentage of retail kWh sales. The report shall include the statewide total and the total owned by each retail electricity provider and shall discuss the progress of each provider in meeting the requirements of section 8004 (renewable portfolio standards) of this title. The requirements of this subdivision (b)(2) shall not apply to the report to be filed under this section on or before January 15, 2013 and shall apply to all reports to be filed subsequently under this section.

(3) The amount of SPEED resources owned by the Vermont retail electricity providers, expressed as a percentage of retail kWh sales. The report shall include the statewide total and the total owned by each retail electricity provider and shall discuss the progress of each provider toward achieving the goals and targets of subsection 8005(d) (SPEED) of this title. The report to be filed under this subsection on or before January 15, 2019 shall discuss and attach the board's determination under subdivision 8005(d)(1) (2017 SPEED goal) of this title.

(4) A summary of the activities of the SPEED program under section 8005 of this title, including the name, location, plant capacity, and average annual energy generation, of each SPEED resource within the program.

(5) A summary of the activities of the standard offer program under section 8005a of this title, including the number of plants participating in the program, the prices paid by the program, and the plant capacity and average annual energy generation of the participating plants. The report shall present this information as totals for all participating plants and by category of renewable energy technology. The report also shall identify the number of applications received, the number of participating plants under contract, and the number of participating plants actually in service.

(6) A report on the market for tradeable renewable energy credits, including the prices at which credits are being sold.

(7) An assessment of the energy efficiency and renewable energy markets and recommendations to the general assembly regarding strategies that may be necessary to encourage the use of these resources to help meet upcoming supply requirements.

(8) Any recommendations for statutory change related to sections 8004, 8005, and 8005a of this title.

* * * Renewable Energy Statutes; Technical Corrections * * *

Sec. 8. 30 V.S.A. § 8009 is amended to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO
REQUIREMENT

(a) In this section:

(1) “Baseload renewable power” means a plant that generates electricity from renewable energy; that, during normal operation, is capable of taking all or part of the minimum load on an electric transmission or distribution system; and that produces electricity essentially continuously at a constant rate.

(2) “Baseload renewable power portfolio requirement” means an annual average of 175,000 MWh of baseload renewable power from an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011.

(3) “Biomass” means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of ~~30 V.S.A. §~~ subdivision 8002(2) of this title.

(4) ~~“Vermont composite electric utility system” means the combined generation, transmission, and distribution resources along with the combined retail load requirements of the Vermont retail electricity providers.~~

(b) ~~Notwithstanding subsection 8004(a) and subdivision 8005(d)(1) of this title, commencing~~ Commencing November 1, 2012, the electricity supplied by each Vermont retail electricity provider to its customers shall include the provider’s pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, 2022.

* * *

(f) With respect to a plant used to satisfy the baseload renewable power portfolio requirement:

(1) The SPEED facilitator shall purchase the baseload renewable power, and the electricity purchased and any associated costs shall be allocated by the SPEED facilitator to the Vermont retail electricity providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay those costs.

(2) Any environmental attributes, including tradeable renewable energy credits ~~attributable to, of~~ the electricity purchased shall be transferred to the

Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection.

* * *

Sec. 9. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

(a) Creation of fund.

(1) There is established the Vermont clean energy development fund to consist of each of the following:

(A) The proceeds due the state under the terms of the memorandum of understanding between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered under public service board docket 6812; together with the proceeds due the state under the terms of any subsequent memoranda of understanding entered before July 1, 2005 between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc.

(B) All payments made by a retail electricity provider pursuant to subsection 8004(e) (alternative compliance payments) of this title.

(C) Any other monies that may be appropriated to or deposited into the fund.

(2) Balances in the fund shall be expended solely for the purposes set forth in this subchapter and shall not be used for the general obligations of government. All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund. Interest earned by the fund shall be deposited in the fund. This fund is established in the state treasury pursuant to ~~subchapter 5 of chapter 7 of Title 32 V.S.A. chapter 7, subchapter 5.~~

* * *

Sec. 10. STATUTORY REVISION

(a) The office of legislative council shall reorganize 30 V.S.A. § 8002 (definitions) so that the definitions are in alphabetical order.

(b) In the Vermont Statutes Annotated, the office of legislative council shall revise each cross-reference to a definition contained in 30 V.S.A. § 8002 so that it refers to the definition as reorganized under subsection (a) of this section.

* * * Net Metering; Environmental Attributes * * *

Sec. 11. 30 V.S.A. § 219a(n) is added to read:

(n) An electric company shall own the environmental attributes of all net metering systems that interconnect with the company's distribution system. The company shall not sell these environmental attributes and shall apply them toward the requirements of section 8004 (renewable portfolio standards) of this title. For the purpose of this subsection, "environmental attributes" shall have the same meaning as under section 8002 (renewable energy chapter; definitions) of this title.

* * * Utility Planning and Implementation; Consistency with Renewable Energy Goals and Targets * * *

Sec. 12. 30 V.S.A. § 218c is amended to read:

§ 218c. LEAST COST INTEGRATED PLANNING

(a)(1) A "least cost integrated plan" for a regulated electric or gas utility is a plan for meeting the public's need for energy services, after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy supply, transmission and distribution capacity, transmission and distribution efficiency, and comprehensive energy efficiency programs. Economic costs shall be ~~determined~~ assessed with due regard to:

(A) the greenhouse gas inventory developed under the provisions of 10 V.S.A. § 582;

(B) the state's progress in meeting its greenhouse gas reduction goals; ~~and~~

(C) the value of the financial risks associated with greenhouse gas emissions from various power sources; and

(D) consistency with section 8001 (renewable energy goals) of this title.

(2) "Comprehensive energy efficiency programs" shall mean a coordinated set of investments or program expenditures made by a regulated electric or gas utility or other entity as approved by the board pursuant to subsection 209(d) of this title to meet the public's need for energy services through efficiency, conservation or load management in all customer classes and areas of opportunity which is designed to acquire the full amount of cost effective savings from such investments or programs.

(b) Each regulated electric or gas company shall prepare and implement a least cost integrated plan for the provision of energy services to its Vermont customers. ~~Proposed plans shall be submitted~~ At least every third year on a schedule directed by the public service board, each such company shall submit a proposed plan to the department of public service and the public service board. The board, after notice and opportunity for hearing, may approve a company's least cost integrated plan if it determines that the company's plan complies with the requirements of subdivision (a)(1) of this section, is reasonably consistent with achieving the goals and targets of subsection 8005(d) (2017 SPEED goal; total renewables targets) of this title and, if the plan is submitted by an electric company on or after January 1, 2014, demonstrates that the company is and will be in compliance with the requirements of section 8004 (renewable portfolio standard) of this title.

* * *

Sec. 13. 30 V.S.A. § 248(b) is amended to read:

(b) Before the public service board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment or construction:

* * *

(2) is required to meet the need for present and future demand for service which could not otherwise be provided in a more cost effective manner through energy conservation programs and measures and energy-efficiency and load management measures, including but not limited to those developed pursuant to the provisions of subsection 209(d), section 218c, and subsection 218(b) of this title. In determining whether this criterion is met, the board shall assess the environmental and economic costs of the purchase, investment, or construction in the manner set out under subdivision 218c(a)(1) (least cost integrated plan) of this title;

* * *

* * * Total Energy * * *

Sec. 14. TOTAL ENERGY; REPORT

(a) The general assembly finds that, in the comprehensive energy plan issued in December 2011, the department of public service recommends that Vermont achieve, by 2050, a goal that 90 percent of the energy consumed in the state be renewable energy. This goal would apply across all energy sectors in Vermont, including electricity consumption, thermal energy, and transportation (total energy).

(b) The commissioner of public service shall convene an interagency and stakeholder working group to study and report to the general assembly on policies and funding mechanisms that would be designed to achieve the goal described in subsection (a) of this section in an integrated and comprehensive manner. The study and report shall include consideration of a total energy standard that would work with and complement the mechanisms enacted in Secs. 3 (renewable portfolio standards), 4 (SPEED; total renewables targets); and 5 (SPEED; standard offer program) of this act. The group's report shall include its recommended policy and funding mechanisms and the reasons for the recommendations. The report shall be submitted to the general assembly by December 15, 2013.

(c) Prior to submitting the report to the general assembly, the group shall offer an opportunity to submit information and comment to affected and interested persons such as business organizations, consumer advocates, energy efficiency entities appointed under Title 30, energy and environmental advocates, fuel dealers, relevant state agencies, transportation-related organizations, and Vermont electric and gas utilities.

* * * Greenhouse Gas Accounting * * *

Sec. 15. 10 V.S.A. § 582 is amended to read:

§ 582. GREENHOUSE GAS INVENTORIES; REGISTRY;
ACCOUNTING

* * *

(e) Rules. The secretary may adopt rules to implement the provisions of this section and shall review existing and proposed international, federal, and state greenhouse gas emission reporting programs and make reasonable efforts to promote consistency among the programs established pursuant to this section and other programs, and to streamline reporting requirements on greenhouse gas emission sources. Nothing Except as provided in subsection (g) of this section, nothing in this section shall limit a state agency from adopting any rule within its authority.

(f) Participation by government subdivisions. The state and its municipalities may participate in the inventory for purposes of registering reductions associated with their programs, direct activities, or efforts, including the registration of emission reductions associated with the stationary and mobile sources they own, lease, or operate.

(g) Greenhouse gas accounting. In consultation with the department of public service created under 30 V.S.A. § 1, the secretary shall research and

adopt by rule greenhouse gas accounting protocols that achieve transparent and accurate life cycle accounting of greenhouse gas emissions, including emissions of such gases from the use of fossil fuels and from renewable fuels such as biomass. On adoption, such protocols shall be the official protocols to be used by any agency or political subdivision of the state in accounting for greenhouse gas emissions.

* * * Energy Efficiency * * *

Sec. 16. 30 V.S.A. § 209(d)(7) is amended to read:

(7) Net revenues above costs associated with payments from the New England Independent System Operator (ISO-NE) for capacity savings resulting from the activities of the energy efficiency utility designated under subdivision (2) of this subsection shall be deposited into the electric efficiency fund established by this section. Any such net revenues not transferred to the state PACE reserve fund under 24 V.S.A. § 3270(c) shall be used by the entity appointed under subdivision (2) of this subsection to deliver heating and process-fuel energy efficiency services to Vermont consumers of such fuel on a whole-buildings basis to help meet the state's building efficiency goals established by 10 V.S.A. § 581. In delivering such services with respect to heating systems, the entity shall give priority to incentives for the installation of ~~woody~~ high efficiency biomass heating systems and shall have a goal of offering an incentive that is equal to 25 percent of the installed cost of such a system. For the purpose of this subdivision (7), "~~woody~~ biomass" means organic nonfossil material ~~from trees or woody plants~~ constituting a source of renewable energy within the meaning of subdivision 8002(2) of this title. ~~Provision of an incentive under this subdivision (7) for a woody biomass heating system shall not be contingent on the making of other energy efficiency improvements at the property on which the system will be installed.~~

Sec. 17. EFFECTIVE DATES; IMPLEMENTATION

(a) This section and Secs. 1 (renewable energy chapter; goals), 2 (renewable energy chapter; definitions), 3 (renewable portfolio standards), 4 (SPEED; total renewables targets); 5 (SPEED; standard offer program), 6 (standard offer; prior capacity; interconnection application), and 14 (total energy; report) of this act shall take effect on passage.

(b) All sections of this act not referenced in subsection (a) of this section shall take effect on July 1, 2012.

(c) The public service board shall:

(1) No later than March 1, 2013, adopt rules or orders sufficient to implement 30 V.S.A. § 8005a(d)(3) (new standard offer plants; transmission and distribution constraints).

(2) No later than July 1, 2013, adopt rules or orders sufficient to implement 30 V.S.A. § 8004 (renewable portfolio standards) as amended by Sec. 3 of this act.

(d) No later than September 1, 2013, the secretary of natural resources shall adopt rules pursuant to Sec. 15 of this act, 10 V.S.A. § 582(g) (greenhouse gas accounting).

and that after passage the title of the bill be amended to read: “An act relating to the Vermont Energy Act of 2012”

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Recess

At one o'clock and fifty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and forty-five minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 468

Consideration resumed on House bill, entitled

An act relating to a renewable portfolio standard and the Sustainably Priced Energy Enterprise Development Program;

Pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy? **Rep. Reis of St. Johnsbury** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy? was decided in the affirmative. Yeas, 96. Nays, 45.

Those who voted in the affirmative are:

Ancel of Calais
Andrews of Rutland City
Atkins of Winooski
Bartholomew of Hartland
Bissonnette of Winooski
Bohi of Hartford

Botzow of Pownal
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Canfield of Fair Haven
Cheney of Norwich

Christie of Hartford
Clarkson of Woodstock
Condon of Colchester
Conquest of Newbury
Copeland-Hanzas of
Bradford

Corcoran of Bennington
 Courcelle of Rutland City
 Dakin of Chester
 Deen of Westminster
 Donovan of Burlington
 Edwards of Brattleboro
 Ellis of Waterbury
 Emmons of Springfield
 Evans of Essex
 Fisher of Lincoln
 Frank of Underhill
 French of Shrewsbury
 French of Randolph
 Grad of Moretown
 Haas of Rochester
 Head of South Burlington
 Heath of Westford
 Helm of Fair Haven
 Hooper of Montpelier
 Howard of Cambridge
 Howrigan of Fairfield
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Krebs of South Hero

Krowinski of Burlington
 Kupersmith of South
 Burlington
 Lanpher of Vergennes
 Larocque of Barnet
 Lenes of Shelburne
 Leriche of Hardwick
 Lippert of Hinesburg
 Macaig of Williston
 Malcolm of Pawlet
 Manwaring of Wilmington
 Marek of Newfane
 Martin of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 McNeil of Rutland Town
 Miller of Shaftsbury
 Mook of Bennington
 Moran of Wardsboro
 Mrowicki of Putney *
 Munger of South Burlington
 Nuovo of Middlebury
 O'Brien of Richmond
 O'Sullivan of Burlington
 Partridge of Windham
 Pearson of Burlington

Peaslee of Guildhall
 Peltz of Woodbury
 Poirier of Barre City
 Potter of Clarendon
 Pugh of South Burlington
 Ralston of Middlebury
 Ram of Burlington
 Russell of Rutland City
 Shand of Weathersfield
 Sharpe of Bristol
 Stevens of Waterbury
 Stevens of Shoreham
 Stuart of Brattleboro
 Sweaney of Windsor
 Taylor of Barre City
 Till of Jericho
 Toll of Danville
 Townsend of Randolph
 Trieber of Rockingham
 Waite-Simpson of Essex
 Webb of Shelburne
 Wilson of Manchester
 Wizowaty of Burlington
 Wright of Burlington
 Yantachka of Charlotte
 Zagar of Barnard

Those who voted in the negative are:

Acinapura of Brandon
 Batchelor of Derby
 Bouchard of Colchester
 Branagan of Georgia
 Brennan of Colchester
 Browning of Arlington
 Burditt of West Rutland
 Clark of Vergennes
 Consejo of Sheldon
 Davis of Washington
 Devereux of Mount Holly
 Dickinson of St. Albans
 Town
 Donaghy of Poultney
 Donahue of Northfield *
 Eckhardt of Chittenden

Fagan of Rutland City
 Gilbert of Fairfax
 Greshin of Warren
 Hebert of Vernon
 Higley of Lowell
 Hubert of Milton
 Johnson of Canaan
 Koch of Barre Town *
 Komline of Dorset
 Lawrence of Lyndon
 Lewis of Berlin
 Lewis of Derby
 Marcotte of Coventry
 McAllister of Highgate
 McFaun of Barre Town
 Myers of Essex

Olsen of Jamaica
 Pearce of Richford
 Perley of Enosburgh
 Reis of St. Johnsbury
 Savage of Swanton
 Scheuermann of Stowe *
 Shaw of Pittsford
 Smith of New Haven
 South of St. Johnsbury
 Strong of Albany *
 Turner of Milton
 Winters of Williamstown
 Woodward of Johnson
 Young of Glover

Those members absent with leave of the House and not voting are:

Aswad of Burlington
Crawford of Burke
Degree of St. Albans City

Keenan of St. Albans City
Kilmartin of Newport City
Lorber of Burlington

Morrissey of Bennington
Spengler of Colchester

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

This bill sets good and important goals. But are they viable goals? Which renewable resources will they be built upon? What will it cost? We don’t know and without that I cannot support it.”

Rep. French of Shrewsbury explained his vote as follows:

“Mr. Speaker:

I vote yes. If not now, when? If not us, who?”

Rep. Klein of East Montpelier explained his vote as follows:

“Mr. Speaker:

H. 468 is a solid balance between moving forward with a sustainable energy future to create jobs, strengthen the grid and, most of all, reduce green house gas emissions and keeping in mind a need to have rates that do not disrupt our economy. Nothing is perfect but to do nothing is the worst choice we could make. I vote yes to move forward responsibly.”

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

This bill promises an undetermined and uncertain reduction in carbon footprint from electrical generation in exchange for an undetermined but certain increase in our electrical rates. It says ‘trust us and things will be fine.’ I don’t have that degree of trust.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

I voted for this bill as it helps us move forward in our efforts to do our bit to address global climate change – and move us away from energy technologies from the last century like oil, coal and nuclear and into a 21st energy future.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

I vote no on this bill, not because I don't believe reducing our carbon emissions is important. In fact, I do. But I do not believe that return as a result of this bill is worth the cost. For a reduction of 2% in our total carbon emissions over 20 years we are dramatically increasing electricity costs on Vermont families and businesses. Just one company alone – a very important one in Essex – estimates its electricity costs will increase \$5.8 - \$7 million per year by 2032 as a result of this bill.”

Rep. Strong of Albany explained her vote as follows:

“Mr. Speaker:

In the plan of increasing renewable energy in Vermont I am very concerned about the long-term environmental impacts of large-scale wind projects on our ridge lines.”

Thereupon, third reading was ordered.

Bill Read Second Time; Third Reading Ordered

H. 769

Rep. Masland of Thetford spoke for the committee on Ways and Means.

House bill entitled

An act relating to department of environmental conservation fees

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Ralston of Middlebury** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 91. Nays, 46.

Those who voted in the affirmative are:

Ancel of Calais	Clarkson of Woodstock	Ellis of Waterbury
Andrews of Rutland City	Condon of Colchester	Emmons of Springfield
Atkins of Winooski	Conquest of Newbury	Evans of Essex
Bartholomew of Hartland	Consejo of Sheldon	Fisher of Lincoln
Bissonnette of Winooski	Corcoran of Bennington	Frank of Underhill
Bohi of Hartford	Courcelle of Rutland City	French of Shrewsbury
Botzow of Pownal	Dakin of Chester	French of Randolph
Burke of Brattleboro	Davis of Washington	Gilbert of Fairfax
Buxton of Tunbridge	Deen of Westminster	Grad of Moretown
Campion of Bennington	Donahue of Northfield	Haas of Rochester
Cheney of Norwich	Donovan of Burlington	Head of South Burlington
Christie of Hartford	Edwards of Brattleboro	Heath of Westford

Hooper of Montpelier	Masland of Thetford	Shand of Weathersfield
Jerman of Essex	McCullough of Williston	Sharpe of Bristol
Jewett of Ripton	Miller of Shaftsbury	South of St. Johnsbury
Johnson of South Hero	Mook of Bennington	Stevens of Waterbury
Kitzmiller of Montpelier	Moran of Wardsboro	Stuart of Brattleboro
Klein of East Montpelier	Mrowicki of Putney	Sweaney of Windsor
Krowinski of Burlington	Munger of South Burlington	Taylor of Barre City
Kupersmith of South Burlington	Nuovo of Middlebury	Till of Jericho
Lanpher of Vergennes	O'Brien of Richmond	Toll of Danville
Lenes of Shelburne	O'Sullivan of Burlington	Trieber of Rockingham
Leriche of Hardwick	Partridge of Windham	Waite-Simpson of Essex
Lippert of Hinesburg	Pearson of Burlington	Webb of Shelburne
Macaig of Williston	Peltz of Woodbury	Wilson of Manchester
Malcolm of Pawlet	Poirier of Barre City	Wizowaty of Burlington
Manwaring of Wilmington	Potter of Clarendon	Woodward of Johnson
Marek of Newfane *	Pugh of South Burlington	Yantachka of Charlotte
Martin of Springfield	Ralston of Middlebury	Young of Glover
Martin of Wolcott	Ram of Burlington	Zagar of Barnard
	Russell of Rutland City	

Those who voted in the negative are:

Acinapura of Brandon	Helm of Fair Haven	McNeil of Rutland Town
Batchelor of Derby	Higley of Lowell	Myers of Essex
Bouchard of Colchester	Howard of Cambridge	Olsen of Jamaica
Branagan of Georgia	Howrigan of Fairfield	Pearce of Richford
Browning of Arlington	Hubert of Milton	Peaslee of Guildhall
Burditt of West Rutland	Johnson of Canaan	Perley of Enosburgh
Canfield of Fair Haven	Kilmartin of Newport City	Reis of St. Johnsbury
Clark of Vergennes	Koch of Barre Town	Savage of Swanton
Devereux of Mount Holly	Krebs of South Hero	Scheuermann of Stowe
Dickinson of St. Albans Town	Larocque of Barnet	Shaw of Pittsford
Donaghy of Poultney	Lawrence of Lyndon	Smith of New Haven
Eckhardt of Chittenden	Lewis of Berlin	Townsend of Randolph
Fagan of Rutland City	Lewis of Derby *	Turner of Milton
Greshin of Warren	Marcotte of Coventry	Winters of Williamstown
Hebert of Vernon	McAllister of Highgate	Wright of Burlington
	McFaun of Barre Town	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Degree of St. Albans City	Spengler of Colchester
Brennan of Colchester	Keenan of St. Albans City	Stevens of Shoreham
Copeland-Hanzas of Bradford	Komline of Dorset	Strong of Albany
Crawford of Burke	Lorber of Burlington	
	Morrissey of Bennington	

Bill Amended; Third Reading Ordered**H. 745**

Rep. Trieber of Rockingham, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to the Vermont prescription monitoring system

Reported in favor of its passage when amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

It is the purpose of this act to maximize the effectiveness and appropriate utilization of the Vermont prescription monitoring system, which serves as an important tool in promoting public health by providing opportunities for treatment for and prevention of abuse of controlled substances without interfering with the legal medical use of those substances.

Sec. 1a. 18 V.S.A. § 4201(26) is amended to read:

(26) "Prescription" means an order for a regulated drug made by a physician, dentist, or veterinarian licensed under this chapter to prescribe such a drug which shall be in writing except as otherwise specified ~~herein~~ in this subdivision. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name ~~and~~, address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the physician. A prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form.

Sec. 2. 18 V.S.A. § 4215b is added to read:

§ 4215b. IDENTIFICATION

Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, a pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner. If the individual does not have valid, current

government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 3. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

* * *

(d) Nothing in this section shall authorize the department of public safety and other authorities described in subsection (a) of this section to have access to VPMS (Vermont prescription monitoring system) created pursuant to chapter 84A of this title, except as provided in that chapter.

(e) Notwithstanding subsection (d) of this section, a drug diversion investigator, as defined in section 4282 of this title, with a warrant may request VPMS data from the department of health pursuant to subdivision 4284(b)(2)(F) of this title.

Sec. 4. DELETED

Sec. 5. 18 V.S.A. § 4282 is amended to read:

§ 4282. DEFINITIONS

As used in this chapter:

* * *

(5) "Delegate" means an individual employed by a health care facility or pharmacy or in the office of the chief medical examiner and authorized by a health care provider or dispenser or by the chief medical examiner to request information from the VPMS relating to a bona fide current patient of the health care provider or dispenser or to a bona fide investigation or inquiry into an individual's death.

(6) "Department" means the department of health.

(7) "Drug diversion investigator" means an employee of the department of public safety whose primary duties include investigations involving violations of laws regarding prescription drugs or the diversion of prescribed controlled substances, and who has completed a training program established by the department of health by rule that is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from the VPMS.

Sec. 6. 18 V.S.A. § 4283 is amended to read:

§ 4283. CREATION; IMPLEMENTATION

(a) ~~Contingent upon the receipt of funding, the~~ The department ~~may establish~~ shall maintain an electronic database and reporting system for monitoring Schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as may be amended, that are dispensed within the state of Vermont by a health care provider or dispenser or dispensed to an address within the state by a pharmacy licensed by the Vermont board of pharmacy.

* * *

(e) It is not the intention of the department that a health care provider or a dispenser shall have to pay a fee or tax or purchase hardware or proprietary software required by the department specifically for the use, establishment, maintenance, or transmission of the data. The department shall seek grant funds and take any other action within its financial capability to minimize any cost impact to health care providers and dispensers.

* * *

Sec. 7. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall not be subject to public records law. The department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.

(b)(1) The department shall ~~be authorized to provide data to only~~ allow only the following persons to query the VPMS:

(1) ~~A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.~~

(2)(A) A health care provider ~~or~~ dispenser, or delegate who ~~requests information~~ is registered with the VPMS and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.

(B) The commissioner of health and the deputy commissioner for alcohol and drug abuse programs.

(C) Personnel or contractors, as necessary for establishing and maintaining the VPMS.

(D) The medical director of the department of Vermont health access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

(E) A medical examiner from the office of the chief medical examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.

(F) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to a Vermont resident or to investigate the death of a Vermont resident.

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

(A) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

~~(3)~~(B) A designated representative of a board responsible for the licensure, regulation, or discipline of health care providers or dispensers pursuant to a bona fide specific investigation.

~~(4)~~(C) A patient for whom a prescription is written, insofar as the information relates to that patient.

~~(5)~~(D) The relevant occupational licensing or certification authority if the commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a ~~trained law enforcement officer~~ drug diversion investigator.

~~(6)~~(E)(i) The commissioner of public safety, personally, or the deputy commissioner of public safety, personally, if the commissioner of health, personally, or the deputy commissioner for alcohol and drug abuse programs, personally, makes the disclosure, has consulted with at least one of the patient's health care providers, and believes that the disclosure is necessary to avert a serious and imminent threat to a person or the public.

(ii) The commissioner of public safety, personally, or the deputy commissioner of public safety, personally, when he or she requests data from

the commissioner of health, and the commissioner of health believes, after consultation with at least one of the patient's health care providers, that disclosure is necessary to avert a serious and imminent threat to a person or the public.

(iii) The commissioner or deputy commissioner of public safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

~~(7) Personnel or contractors, as necessary for establishing and maintaining the VPMS.~~

(F) A drug diversion investigator, as defined in section 4282 of this section, with a warrant.

(G) A prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement to share prescription monitoring information with the Vermont department of health as described in section 4288 of this title.

(c) A person who receives data or a report from VPMS or from the department shall not share that data or report with any other person or entity not eligible to receive that data pursuant to subsection (b) of this section, except as necessary and consistent with the purpose of the disclosure and in the normal course of business. Nothing shall restrict the right of a patient to share his or her own data.

(d) The commissioner shall offer health care providers and dispensers training in the proper use of information they may receive from VPMS. Training may be provided in collaboration with professional associations representing health care providers and dispensers.

(e) ~~A trained law enforcement officer~~ drug diversion investigator who may receive information pursuant to this section shall not have access to VPMS except for information provided to the ~~officer~~ investigator by the licensing or certification authority.

(f) The department is authorized to use information from VPMS for research and public health promotion purposes provided that data are aggregated or otherwise de-identified.

(g) Knowing disclosure of transmitted data to a person not authorized by subsection (b) of this section, or obtaining information under this section not relating to a bona fide specific investigation, shall be punishable by imprisonment for not more than one year or a fine of not more than \$1,000.00, or both, in addition to any penalties under federal law.

(h) All information and correspondence relating to the disclosure of information by the commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged, exempt from the public access to records law, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(i) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the name of the person who is the subject of the investigation.

(j) Each request for disclosure of data pursuant to a warrant or to subdivision (b)(2)(E) of this section shall document a bona fide specific investigation and shall specify the name of the person who is the subject of the investigation.

Sec. 8. 18 V.S.A. § 4286 is amended to read:

§ 4286. ADVISORY COMMITTEE

(a)(1) The commissioner shall establish an advisory committee to assist in the implementation and periodic evaluation of VPMS.

(2) The department shall consult with the committee concerning any potential operational or economic impacts on dispensers and health care providers related to transmission system equipment and software requirements.

(3) The committee shall develop guidelines for use of VPMS by dispensers ~~and~~, health care providers, and delegates, and shall make recommendations concerning under what circumstances, if any, the department shall or may give VPMS data, including data thresholds for such disclosures, to law enforcement personnel. The committee shall also review and approve advisory notices prior to publication.

(4) The committee shall make recommendations regarding ways to improve the utility of the VPMS and its data.

(5) The committee shall have access to aggregated, de-identified data from the VPMS.

* * *

(d) The committee shall issue a report to the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services no later than January 15th in 2008, 2010, ~~and 2012~~, and 2014.

(e) This section shall sunset on July 1, ~~2012~~ 2014 and thereafter the committee shall cease to exist.

Sec. 9. 18 V.S.A. § 4287 is amended to read:

§ 4287. RULEMAKING

The department shall adopt rules for the implementation of VPMS as defined in this chapter consistent with 45 C.F.R. Part 164, as amended and as may be amended, that limit the disclosure to the minimum information necessary for purposes of this act ~~and shall keep the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services advised of the substance and progress of initial rulemaking pursuant to this section.~~

Sec. 10. 18 V.S.A. § 4288 is added to read:

§ 4288. RECIPROCAL AGREEMENTS

The department of health may enter into reciprocal agreements with other states that have prescription monitoring programs so long as access under such agreement is consistent with the privacy, security, and disclosure protections in this chapter.

Sec. 11. 18 V.S.A. § 4289 is added to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for different medical conditions.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the commissioner of health shall notify such provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The commissioner of health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(d)(1) Each professional licensing authority for health care providers and dispensers authorized to prescribe or dispense Schedules II, III, and IV

controlled substances shall adopt standards regarding the frequency and circumstances under which their respective licensees shall query the VPMS.

(2) Each professional licensing authority for dispensers shall adopt standards regarding the frequency and circumstances under which its licensees shall report to the VPMS, which shall be no less than once every seven days.

(3) A health care provider or dispenser who fails to comply with the standards adopted by the applicable licensing authority shall be subject to discipline by the licensing authority.

(4) No later than January 15, 2013, each professional licensing authority subject to this subsection shall submit its standards to the VPMS advisory committee established in section 4286 of this title.

Sec. 12. 18 V.S.A. § 4290 is added to read:

§ 4290. REPLACEMENT PRESCRIPTIONS AND MEDICATIONS

(a) As used in this section, “replacement prescription” means an unscheduled prescription request in the event that the document on which a patient’s prescription was written or the patient’s prescribed medication is reported to the prescriber as having been lost or stolen.

(b) When a patient or a patient’s parent or guardian requests a replacement prescription for a Schedule II, III, or IV controlled substance, the patient’s health care provider shall query the VPMS prior to writing the replacement prescription to determine whether the patient may be receiving more than a therapeutic dosage of the controlled substance.

(c) When a health care provider writes a replacement prescription pursuant to this section, the provider shall clearly indicate as much by writing the word “REPLACEMENT” on the face of the prescription.

(d) When a dispenser fills a replacement prescription, the dispenser shall report the required information to the VPMS and shall indicate that the prescription is a replacement by completing the VPMS field provided for such purpose. In addition, the dispenser shall report to the VPMS the name of the person picking up the replacement prescription, if not the patient.

(e) The VPMS shall create a mechanism by which individuals authorized to access the system pursuant to section 4284 of this title may search the database for information on all or a subset of all replacement prescriptions.

Sec. 13. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

(a) There is hereby created a unified pain management system advisory council for the purpose of advising the commissioner of health on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse.

(b) The unified pain management system advisory council shall consist of the following members:

(1) the commissioner of health or designee, who shall serve as chair;

(2) the deputy commissioner of health for alcohol and drug abuse programs or designee;

(3) the commissioner of mental health or designee;

(4) the director of the Blueprint for Health or designee;

(5) the chair of the board of medical practice or designee, who shall be a clinician;

(6) a representative of the Vermont state dental society, who shall be a dentist;

(7) a representative of the Vermont board of pharmacy, who shall be a pharmacist;

(8) a faculty member from the academic detailing program at the University of Vermont's College of Medicine;

(9) a faculty member from the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

(10) a representative of the Vermont Medical Society, who shall be a primary care clinician;

(11) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

(12) a representative of the Vermont Ethics Network;

(13) a representative of the Hospice and Palliative Care Council of Vermont;

(14) a representative of the office of the health care ombudsman;

(15) the medical director for the department of Vermont health access;

(16) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(17) a member of the Vermont board of nursing subcommittee on APRN practice, who shall be an advanced practice registered nurse;

(18) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(19) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who is a member of the American Academy of Pain Management and has experience in treating chronic pain, to be selected by the board of psychological examiners;

(20) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the deputy commissioner of health for alcohol and drug abuse programs; and

(21) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain.

(c) Advisory council members who are not employed by the state shall be entitled to per diem and expenses as provided by 32 V.S.A. § 1010.

(d) A majority of the members of the advisory council shall constitute a quorum. The advisory council shall act only by vote of a majority of its entire membership and only at meetings called by the chair or by any three of the members.

(e) To the extent funds are available, the advisory council shall have the following duties:

(1) to develop and recommend principles and components of a unified pain management system, including the appropriate use of controlled substances in treating non cancer-related chronic pain and addiction and in preventing prescription drug abuse; and

(2) to identify and recommend components of evidence-based training modules and minimum requirements for the continuing education of all licensed health care providers in the state who treat chronic pain or addiction or prescribe controlled substances in Schedule II, III, or IV consistent with a unified pain management system.

(f) The commissioner of health may designate subcommittees as appropriate to carry out the work of the advisory council.

(g) On or before January 15, 2013, the advisory council shall submit its recommendations to the senate committee on health and welfare, the house committee on human services, and the house committee on health care.

Sec. 14. UNUSED DRUG DISPOSAL PROGRAM

No later than January 15, 2013, the commissioners of health and of public safety shall establish a drug disposal program for unused over-the-counter and prescription drugs, which program shall be available to Vermont residents throughout the state at no charge to the consumer. The commissioners shall take steps to publicize the program and to make all Vermont residents aware of opportunities to avail themselves of it.

Sec. 15. ADVISORY COMMITTEE REPORT

No later than January 15, 2013, the VPMS advisory committee established in 18 V.S.A. § 4286 shall provide recommendations to the house committee on human services and the senate committee on health and welfare regarding ways to maximize the effectiveness and appropriate use of the VPMS database, including adding new reporting capabilities, in order to improve patient outcomes and avoid prescription drug diversion;

Sec. 16. SPENDING AUTHORITY

Providing financial support for the unified pain management system advisory council established in Sec. 13 of this act, upgrading the VPMS software, and implementing enhancements to the VPMS shall all be acceptable uses of the monies in the evidence-based education and advertising fund established in 33 V.S.A. § 2004a. The commissioner of health shall seek excess receipts authority to make expenditures as needed from the evidence-based education and advertising fund for these purposes.

Sec. 17. EFFECTIVE DATES

(a) This section and Sec. 8 of this act (18 V.S.A. § 4286) shall take effect on passage and shall apply retroactively as of January 15, 2012.

(b) The remaining sections of this act shall take effect on July 1, 2012.

Rep. Lippert of Hinesburg, for the committee on Judiciary, recommended that the report of the committee on Human Services be amended as follows:

First: In Sec. 3 by adding a subsection (f) to read as follows:

(f) The department of public safety shall adopt a written policy and protocols for accessing pharmacy records through the authority granted in this section. These policies and protocols shall be a public record.

Second: By adding a Sec. 3a to read as follows:

Sec. 3a. DEPARTMENT OF PUBLIC SAFETY; REPORTING POLICIES AND PROTOCOLS

No later than December 15, 2012, the commissioner of public safety shall submit to the house and senate committees on judiciary, the house committee

on human services, and the senate committee on health and welfare the department's written policy and protocols used to access pharmacy records at individual pharmacies pursuant to 18 V.S.A. § 4218. Subsequently, if the policy and protocols are substantively amended by the department, it shall submit the amended policy and protocols to the same committees as soon as practicable.

Third: In Sec. 7, by striking 18 V.S.A. § 4284(b)(1)(B) and by relettering the remaining subdivisions to be alphabetically correct.

Fourth: In Sec. 17, subsection (b), by striking "July 1, 2012" and inserting in lieu thereof "October 1, 2012"

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time and the report of the committees on Human Services and Judiciary agreed to.

Thereupon, **Rep. Trieber of Rockingham** moved to amend the report of the committee on Human Services, as amended, as follows:

By striking Sec. 4.

Which was agreed to.

Thereupon, the report of the committee on Human Services, as amended, was agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 627

Rep. Mrowicki of Putney, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to an opiate addiction treatment system

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 93 is added to read:

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

§ 4751. PURPOSE

It is the purpose of this chapter to authorize the department of health to establish a regional system of opioid addiction treatment.

§ 4752. OPIOID ADDICTION TREATMENT SYSTEM

(a) The department of health shall establish by rule a regional system of opioid addiction treatment.

(b) The rules shall include the following requirements:

(1) Patients shall receive appropriate, comprehensive assessment and therapy from a licensed clinical professional with clinical experience in addiction treatment, including a psychiatrist, master's- or doctorate-level psychologist, mental health counselor, clinical social worker, or drug and alcohol abuse counselor.

(2) A medical assessment shall be conducted to determine whether pharmacological treatment, which may include methadone, buprenorphine, and other federally approved medications to treat opioid addiction, is medically appropriate.

(3) A routine medical assessment of the appropriateness for the patient of continued pharmacological treatment based on protocols designed to encourage cessation of pharmacological treatment as medically appropriate for the individual treatment needs of the patient.

(4) Controlled substances for use in federally approved pharmacological treatments for opioid addiction shall be dispensed only by:

(A) a treatment program authorized by the department of health; or

(B) a physician who is not affiliated with an authorized treatment program but who meets federal requirements for use of controlled substances in the pharmacological treatment of opioid addiction.

(5) Comprehensive education and training requirements shall apply for physicians, pharmacists, and the licensed clinical professionals listed in subdivision (1) of this subsection, including relevant aspects of therapy and pharmacological treatment.

(6) Patients shall abide by rules of conduct, violation of which may result in discharge from the treatment program, including:

(A) provisions requiring urinalysis at such times as the program may direct;

(B) restrictions on medication dispensing designed to prevent diversion of medications and to diminish the potential for patient relapse; and

(C) such other rules of conduct as a provider authorized to provide treatment under subdivision (4) of this subsection may require.

(c) No later than January 15 of each year from 2013 through 2016, inclusive, the commissioner shall report to the house committees on human

services and on health care and the senate committee on health and welfare regarding the regional system of opioid addiction treatment, including the system's effectiveness.

Sec. 2. REPEAL

Sec. 132 of No. 66 of the Acts of 2003 (Opiate addiction treatment) is repealed on passage of this act.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to an opioid addiction treatment system"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Human Services agreed to and third reading ordered.

Bill Read Second Time; Amended and Third Reading Ordered

H. 772

Rep. Bouchard of Colchester spoke for the committee on General, Housing and Military Affairs.

House bill entitled

An act relating to allocation of federal rental subsidies

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Bouchard of Colchester** moved that the bill be amended as follows:

First: In Sec. 2, 24 V.S.A. 4005, in subsection (e) by striking the words "authority of the state" and inserting in lieu thereof "state authority"

Second: In Sec. 2, 24 V.S.A. 4005, in subsection (e) by striking the words "a state body" and inserting in lieu thereof "a state public body"

Which was agree to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 484

Rep. Higley of Lowell, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to amendment to the Windham solid waste district charter

Reported in favor of its passage when amended as follows:

First: In Sec. 2, 24 App. V.S.A. chapter 417, § 2, by striking “organic waste” where it appears in the first sentence and inserting in lieu thereof “organic material”

Second: In Sec. 2, 24 App. V.S.A. chapter 417, § 5, in subdivision 13, by striking “or environmental” where it appears

And in subdivision 20, by striking “whether operated by or on behalf of the ~~district~~ District” where it appears

And in subdivision 28, by striking “organic waste” where it appears and inserting in lieu thereof “organic material”

Third: In Sec. 2, 24 App. V.S.A. chapter 417, § 37, by striking “from time to time” where it appears in the third sentence

Fourth: In Sec. 2, 24 App. V.S.A. chapter 417, § 39, by striking “from time to time” where it appears in the second sentence

Fifth: In Sec. 2, 24 App. V.S.A. chapter 417, § 43, in the first new sentence, after “disposal fees and service charges” and before “for the purpose of generating” by inserting “for the district’s own facility or facilities”

Sixth: In Sec. 2, 24 App. V.S.A. chapter 417, § 60, by striking the phrase “from time to time” where it appears in the first sentence of subsection (c)

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 459

Rep. Martin of Wolcott, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the town of Brattleboro

Reported in favor of its passage when amended as follows:

First: In Sec. 2, in § 2.4 (representative town meeting), in subdivision (a)(2), after the fourth sentence ending in “who reside in Brattleboro.”, by inserting a new sentence to read: “The town clerk and town treasurer shall be nonvoting ex officio members if appointed by the town manager.”

Second: In Sec. 2, in § 3.2 (initiative), in subdivision (1)(B), at the end of the final sentence, before the period, by inserting “, unless it is deemed illegal or unconstitutional by the body, in consultation with the town attorney”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 550

Rep. Townsend of Randolph, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the Vermont administrative procedure act

Reported in favor of its passage when amended as follows:

In Sec. 2, 3 V.S.A. § 817, by striking subsections (e) and (f) in their entirety and inserting in lieu thereof a new subsection (e) to read:

(e) At any time following its consideration of a final proposal under section 841 of this title, the committee, by majority vote of the entire committee, may request that any standing committees of the general assembly review the issues or questions presented therein which are outside the jurisdiction of the committee but are within the jurisdiction of the standing committees. On receiving a request for review under this subsection, a standing committee may at its discretion review the issues or questions and act on them. The committee's request for review shall not affect the review or review period of a final proposal.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 640

Rep. Ralston of Middlebury, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to promoting tourism and marketing

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds:

(1) Vermont's economy remains heavily reliant on successful four-season tourism. According to Economic and Policy Resources (*A Benchmark Study of the Economic Impact of Visitor Expenditures on the Vermont Economy*, 2009), direct spending by visitors totals \$1.42 billion annually, visitor spending supports 33,530 (11.5 percent) jobs, and tourism accounts for nearly \$200 million of state revenue from lodging, meals, gas, and property taxes.

(2) Vermont enjoys the tremendous advantage of being within a day's drive of 80 million people in the surrounding metropolitan markets. We share this advantage with our neighboring states and provinces, and, with more visitors opting to stay closer to home and forgo the trip to an airline-dependent destination, it is critically important that we more effectively compete with our neighbors when marketing to our core markets.

(3) Our neighboring states and provinces, with which Vermont competes in a similar arena, outpace Vermont in per-capita tourism spending.

(4) The state annually funds a tourism budget to promote Vermont's travel, recreation, and cultural opportunities to markets within and beyond our borders. As a steward of the Vermont brand, the department of tourism and marketing uses this funding to promote Vermont as a preferred destination. This money is leveraged with both public and private sector partners to enhance the efforts of the travel and tourism industry as a whole.

(5) The recent examples of the expansion of Porter Airlines to Burlington and the need for additional marketing following the damage from Tropical Storm Irene, demonstrated the need for a flexible funding source for marketing resources that can be deployed rapidly when needed.

(6) Flexible and timely promotional funding will encourage a healthy tourism sector and, in turn, deliver additional tax revenue to Vermont, as well as help grow Vermont businesses and employment opportunities.

(7) Beyond tourism and marketing, the state should evaluate whether it could significantly benefit from a source of flexible funding, whether through a fast action fund or similar mechanism, to enable a rapid and meaningful response to specific economic development opportunities as they arise.

Sec. 2. COMPREHENSIVE STUDY OF TOURISM FUNDING

(a) The agency of commerce and community development, in collaboration with the department of finance and management and the joint fiscal office,

shall conduct a comprehensive study to evaluate the optimal structure of tourism and marketing funding, specifically including an evaluation of performance-based, incrementally increased funding for both annual base funding and “fast action” funding for targeted opportunities.

(b) For both base funding and “fast action” funding, the study group shall consider specific performance measures and outcomes designed to gauge the success of tourism funding mechanisms and to trigger incremental increases in funding based on performance.

(c) For the “fast action fund” or similar mechanism, the study group shall consider the appropriate size, project criteria, and process for replenishing the fund, as well as the necessary internal and external controls on the management and deployment of the fund, including an appropriate procedural framework for reasonable review and oversight by the general assembly.

(d) The intent of this study shall be for the agency of commerce and community development to develop strategies that will lead to greater support for tourism funding and growth in Vermont’s tourism economy.

Sec. 3. ECONOMIC DEVELOPMENT FAST ACTION FUND

(a) In addition to the study conducted pursuant to Sec. 2 of this act, the agency of commerce and community development, in collaboration with the department of finance and management and the joint fiscal office, shall conduct a study to evaluate the establishment of a “fast action fund” or similar mechanism designed to provide a rapid and meaningful response to specific economic development opportunities as they arise.

(b) The study group shall consider specific performance measures and outcomes designed to gauge the success of the fund, the appropriate size, project criteria, and process for replenishing the fund, as well as the necessary internal and external controls on the management and deployment of the fund, including an appropriate procedural framework for reasonable review and oversight by the general assembly.

Sec. 4. REPORT

On or before January 15, 2013, the agency of commerce and community development shall submit the results of the studies conducted pursuant to Secs. 2 and 3 of this act, including specific legislative and policy recommendations, to the house committees on commerce and economic development and on agriculture and to the senate committees on economic development, housing and general affairs and on agriculture.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that when so amended the bill ought to pass.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce and Economic Development agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 691

Rep. French of Shrewsbury, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to prohibiting collusion as an antitrust violation

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 2451 is amended to read:

§ 2451. PURPOSE

The purpose of this chapter is to complement the enforcement of federal statutes and decisions governing unfair methods of competition, ~~and~~ unfair or deceptive acts or practices, and anti-competitive practices in order to protect the public; and to encourage fair and honest competition.

Sec. 2. 9 V.S.A. § 2451a is amended to read:

§ 2451a. DEFINITIONS

For the purposes of this chapter:

(a) “Consumer” means any person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of his or her trade or business but for his or her use or benefit or the use or benefit of a member of his or her household, or in connection with the operation of his or her household or a farm whether or not the farm is conducted as a trade or business, or a person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of his or her trade or business but for the use or benefit of his or her business or in connection with the operation of his or her business.

(b) “Goods” or “services” shall include any objects, wares, goods, commodities, work, labor, intangibles, courses of instruction or training, securities, bonds, debentures, stocks, real estate, or other property or services

of any kind. The term also includes bottled liquefied petroleum (LP or propane) gas.

* * *

(h) "Collusion" means an agreement, contract, combination in the form of trusts or otherwise, or conspiracy to engage in price fixing, bid rigging, or market division or allocation of goods or services between or among persons.

Sec. 3. 9 V.S.A. § 2453a is added to read:

§ 2453a. PRACTICES PROHIBITED; CRIMINAL ANTITRUST VIOLATIONS

(a) Collusion is hereby declared to be a crime.

(b) Subsection (a) of this section shall not be construed to apply to activities of or arrangements between or among persons which are permitted, authorized, approved, or required by federal or state statutes or regulations.

(c) It is the intent of the general assembly that in construing this section and subsection 2451a(h) of this title, the courts of this state shall be guided by the construction of federal antitrust law and the Sherman Act, as amended (15 U.S.C. § 1), as interpreted by the courts of the United States.

(d) Nothing in this section limits the power of the attorney general or a state's attorney to bring civil actions for antitrust violations under section 2453 of this title.

(e) A violation of this section shall be punished by a fine of not more than \$100,000.00 for an individual or \$1,000,000.00 for any other person or by imprisonment not to exceed 10 years or both.

Sec. 4. 9 V.S.A. § 2453b is added to read:

§ 2453b. RETALIATION PROHIBITED

No person shall retaliate against, coerce, intimidate, threaten, or interfere with any other person who:

(1) has opposed any act or practice of the person which is collusive or in restraint of trade;

(2) has lodged a complaint or has testified, assisted, or participated in any manner with the attorney general or a state's attorney in an investigation of acts or practices which are collusive or in restraint of trade;

(3) is known by the person to be about to lodge a complaint or testify, assist, or participate in any manner in an investigation of acts or practices which are collusive or in restraint of trade; or

(4) is believed by the person to have acted as described in subdivision (1), (2), or (3) of this subsection.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Recess

At five o'clock and fifty minutes in the afternoon, the Speaker declared a recess until seven o'clock and thirty minutes in the evening.

At seven o'clock and thirty minutes in the evening, the Speaker called the House to order.

Bill Read Second Time; Third Reading Ordered

H. 771

Rep. Christie of Hartford spoke for the committee on Education.

House bill entitled

An act relating to making technical corrections and other miscellaneous changes to education law

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Amended; Third Reading Ordered

H. 412

Rep. Waite-Simpson of Essex, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to harassment and bullying in educational settings

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 14 is amended to read:

§ 14. HARASSMENT; NOTICE AND RESPONSE

(a)(1) An educational institution that receives actual notice of alleged conduct that may constitute harassment shall promptly investigate to determine whether harassment occurred. After receiving notice of the alleged conduct, the school shall provide a copy of its harassment policy, including its harassment investigation procedure, to the alleged victim and the alleged perpetrator. If either the alleged victim or the alleged perpetrator is a minor, the copy of the policy shall be provided to the person's parent or guardian. Nothing herein shall be construed to prohibit educational institutions from investigating and imposing disciplinary consequences upon students for misconduct. Elementary and secondary school officials shall strive to implement the plan developed in accordance with subdivision 1161a(a)(6) of this title in order to prevent misconduct from escalating to the level of harassment.

~~(b) In regard to claims brought pursuant to 9 V.S.A. chapter 139, if~~

(2) If, after notice, the educational institution finds that the alleged conduct occurred and that it constitutes harassment, the educational institution shall take prompt and appropriate remedial action reasonably calculated to stop the harassment. ~~No action shall be brought~~

(b) A claim may be brought under the Fair Housing and Public Accommodations Act pursuant to 9 V.S.A. chapter 139 until only after the administrative remedies available to the claimant under the policy adopted by the educational institution pursuant to subsection 166(e) or 565(b) of this title or pursuant to the harassment policy of a postsecondary school have been exhausted. Such a showing shall not be necessary where the claimant demonstrates that: (1) the educational institution does not maintain such a policy; (2) a determination has not been rendered within the time limits established under subdivision 565(b)(1) of this title; (3) the health or safety of the complainant would be jeopardized otherwise; (4) exhaustion would be futile; or (5) requiring exhaustion would subject the student to substantial and imminent retaliation.

(c) To prevail in an action alleging unlawful harassment filed pursuant to this section and 9 V.S.A. chapter 139, the plaintiff shall prove both of the following:

(1) The student was subjected to unwelcome conduct based on the student's or the student's family member's actual or perceived membership in a category protected by law by 9 V.S.A. § 4502.

(2) The conduct was either so pervasive, or so severe and the cause of a continuing hostile environment, that when viewed from a reasonable person's

standard, it substantially and adversely affected the student's equal access to educational opportunities or benefits provided by the educational institution.

(d) As used in this section:

(1) "Designated employee" means an employee who has been designated by an educational institution to receive complaints of harassment pursuant to subdivision 565(c)(1) of this title or in accordance with the harassment policy of a postsecondary school.

(2) "Educational institution" means a Vermont public or independent school or a postsecondary school that offers or operates a program of college or professional education for credit or degree in Vermont.

(3) "Notice" means a written complaint or oral information that harassment may have occurred which has been provided to a designated employee from another employee, the student allegedly subjected to the harassment, another student, a parent or guardian, or any other individual who has reasonable cause to believe the alleged conduct may have occurred. If the complaint is oral, the designated employee shall promptly reduce the complaint to writing, including the time, place, and nature of the conduct, and the identity of the participants and complainant.

Sec. 2. HUMAN RIGHTS COMMISSION POSITION

(a) The human rights commission is encouraged to apply for grant funding to provide training regarding harassment and bullying prevention and response initiatives designed to educate trainers to work with school districts throughout the state.

(b) At least once annually, the human rights commission shall consult with the commissioner of education regarding the training needs of and appropriate curricula to be delivered to educators in Vermont.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 498

Rep. Poirier of Barre City, for the committee on Health Care, to which had been referred House bill, entitled

An act relating to parity for primary mental health care services

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

(c) A health insurance plan shall provide coverage for treatment of a mental health condition and shall:

(1) not establish any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental health condition than for access to treatment for other health conditions, including no greater co-payment for primary mental health care or services than the co-payment applicable to care or services provided by a primary care physician under an insured's policy and no greater co-payment for specialty mental health care or services than the co-payment applicable to care or services provided by a specialist physician under an insured's policy;

* * *

Sec. 2. RULEMAKING

To carry out the purposes of this act, the commissioner of banking, insurance, securities, and health care administration shall adopt rules pursuant to 3 V.S.A. chapter 25, distinguishing between primary and specialty mental health services, taking into consideration factors such as mental health care providers' scope of practice and patterns of patient visitation.

Sec. 3. EFFECTIVE DATES

(a) This act shall take effect on passage.

(b) Sec. 1 of this act shall apply to health insurance plans on or after July 1, 2013, on such date as a health insurer issues, offers, or renews the health insurance plan, but in no event later than July 1, 2014.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Health Care agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 699

Rep. Russell of Rutland City, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to scrap metal processors

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 82 is amended to read:

CHAPTER 82. SCRAP METAL PROCESSORS

§ 3021. DEFINITIONS

As used in this chapter:

* * *

(7) “Scrap metal processor” means:

(A) a salvage yard, as defined in 24 V.S.A. § 2241(7), but not including a salvage yard described in 24 V.S.A. § 2248(e); or

(B) a person authorized to conduct a business that processes and manufactures scrap metal into prepared grades for sale as raw material to mills, foundries, and other manufacturing facilities.

§ 3022. PURCHASE OF NONFERROUS SCRAP, METAL ARTICLES, AND PROPRIETARY ARTICLES

(a) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles directly from an authorized scrap metal seller or the seller’s authorized agent or employee.

(b) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles from a person who is not an authorized scrap metal seller or the seller’s authorized agent or employee, provided only if the scrap processor complies with all the following procedures at the time of purchase:

(1) ~~At the time of sale, requires~~ Requires the seller to provide a current government-issued photographic identification that indicates the seller’s full name, current address, and date of birth, and records in a permanent ledger the identification information of the seller, the time and date of the transaction, the license number of the seller’s vehicle, and a description of the items received from the seller. ~~This information shall be retained for at least five years at the processor’s normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor’s business location during regular business hours.~~

(2) Requests documentation from the seller of the items offered for sale, such as a bill of sale, receipt, letter of authorization, or similar evidence that establishes that the seller lawfully owns the items to be sold.

(3) After purchasing an item from a person who fails to provide documentation pursuant to subdivision (2) of this subsection ~~(b) of this section~~, submits to the ~~local law enforcement agency~~ department of public safety no later than the close of the following business day a report that describes the item and the seller's identifying information required in subdivision (1) of this subsection, ~~and~~.

~~(4) holds~~ Holds the proprietary article for at least 15 days following purchase.

(c) The information collected by a scrap metal processor pursuant to this section shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.

(d) It shall be unlawful for any seller to refuse to furnish the information required by this section or to furnish incorrect or incomplete information.

§ 3023. PENALTIES

(a) A scrap metal processor who violates any provision of this chapter for the first time may be assessed a civil penalty not to exceed \$1,000.00 for each transaction.

(b) A scrap metal processor who violates any provision of this chapter for a second or subsequent time shall be fined not more than \$25,000.00 for each transaction.

Sec. 2. REPORTING SCRAP METAL SALES

The department of public safety, in collaboration with the department of environmental conservation, shall develop:

(1) a uniform, electronic form and reporting system through which scrap metal processors may submit to the department of public safety the report required for purchases pursuant to 9 V.S.A. § 3022(b)(3); and

(2) an implementation and public outreach process to inform scrap metal processors that the electronic form and reporting system are available for use.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce and Economic Development agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 730

Rep. Marcotte of Coventry, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to miscellaneous consumer protection laws

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REDESIGNATION

The office of legislative council shall redesignate 9 V.S.A. chapter 65 as a new 9 V.S.A. chapter 60 and shall redesignate the sections located within the current 9 V.S.A. chapter 65, sections 2481–2492, as new sections 2381–2392 to be located within the new 9 V.S.A. chapter 60. All references in statute and in administrative rules adopted pursuant to authority granted in statute shall be redesignated to reflect the changes in this section.

Sec. 2. 9 V.S.A. chapter 63, subchapter 5 is added to read:

Subchapter 5. Cause-Related Marketing

§ 2481a. DEFINITIONS

In this chapter:

(1) “Charitable sales promotion” means an advertising or sales campaign conducted in this state by a commercial coventurer in which it is represented to the public that an amount per unit of goods or services purchased or used by the public or an amount based on aggregate purchases or use by the public will benefit a charitable organization or charitable purpose. “Charitable sales promotion” does not include:

(A) A promotion in which 100 percent of the amount paid for the goods or services will benefit a charitable organization or charitable purpose;

(B) A promotion in which a commercial coventurer does not generate a net profit; or

(C) A promotion that does not involve the sale or lease of goods or services.

(2) “Commercial coventurer” means a person who for profit is regularly and primarily engaged in trade or commerce in this state other than in connection with the raising of funds for charitable purposes and who represents to the public that an amount per unit of goods or services purchased or used by the public or an amount based on aggregate purchases or use by the public will benefit a charitable organization or charitable purpose.

(3) “Representation” means an advertisement, commercial, or other communication to the public in any medium.

§ 2481b. REQUIRED DISCLOSURES

Every commercial coventurer shall disclose the following information in a clear and conspicuous manner in close proximity to any representation, in connection with a charitable sales promotion, that an amount per unit of goods or services purchased or used by the public, or an amount based on aggregate purchases or use by the public, will benefit a charitable organization or charitable purpose:

(1) The name of the charitable organization or purpose which is to benefit from the charitable sales promotion;

(2) The amount per unit of goods or services purchased or used that will benefit the charitable organization or purpose or, if not known, the estimated amount, in either case expressed as a dollar amount or a percentage of the amount paid for the purchase or use, except that if the amount is based on aggregate purchases or use, that amount and how it will be calculated shall be disclosed; and

(3) Any maximum amount that will benefit the charitable organization or purpose.

§ 2481c. RECORD-KEEPING

A commercial coventurer shall maintain records that are sufficient to demonstrate compliance with the requirements of this chapter and the disclosed terms of a charitable sales promotion.

§ 2481d. VIOLATIONS

(a) A violation of this subchapter is deemed to be a violation of section 2453 of this title. This section shall not be construed to limit a commercial coventurer’s liability under any other law.

(b) The attorney general has the same authority to make rules, conduct civil investigations, and bring civil actions with respect to the acts and practices of a commercial coventurer as is provided under subchapter 1 of this chapter.

Sec. 3. 9 V.S.A. § 2463 is amended to read:

§ 2463. CREDIT BILLING FOR CERTAIN HOME SOLICITATION
SALES

In the case of any home solicitation sale solicited or consummated by a seller in whole or in part by telephone that is paid for by means of an open-end consumer credit plan within the meaning of the federal Truth-in-Lending Act, 15 U.S.C. § 1601 et seq., the issuer of the credit card on which the consumer has charged the purchase shall, for ~~three years~~ one year from the date of the sale, or within any other time period available under applicable network operating rules in effect at the time of the sale, whichever is greater, and for the purpose of a disputed charge and reimbursement to the consumer, be subject to the claim or defense that the seller failed to comply with the disclosure requirements of section 2454(b) of this chapter and engaged in a related unfair or deceptive act or practice under subsection 2453(a) of this title, regardless of the amount of the purchase, the location of the seller in the United States or Canada, or the amount, if any, already paid by the consumer. ~~The issuer of the credit card shall not be liable for amounts already paid by the consumer and not reimbursed by the seller or the seller's merchant bank.~~ Where a consumer has raised such a claim or defense, the issuer shall not report any negative information on the purchase to any consumer reporting agency as defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f), unless there is a judicial determination that the consumer's defense or claim is without merit, except that the issuer may report that there is a dispute with respect to the charge.

Sec. 4. FINDINGS – REGULATION OF LEAD IN FOOD AND IN
VITAMINS AND OTHER SUPPLEMENTS

The general assembly finds:

- (1) Lead is highly toxic to humans, particularly to young children.
- (2) Ingesting lead can cause irreversible damage that results in long-lasting, permanent neurological damage, such as a decrease in I.Q.
- (3) The effects of lead exposure are cumulative, and a child may be harmed by ingesting very small amounts of lead.
- (4) Over the years there have been public reports of lead in certain food products, including fruit juices, honey, candy, chocolate, and eggs.
- (5) The current statutory definition of "children's products" includes food, vitamins, and supplements.

(6) Although there is no single governmental limit on lead in food, such limits as do exist are much lower than the 100 parts per million (ppm) limit on lead in “children’s products” under Vermont law. For example, the federal Food and Drug Administration has set a 0.005 ppm limit on lead in bottled water and has recommended a 0.1 ppm limit on lead in candy.

(7) The attorney general should exercise his or her authority under the Consumer Fraud Act to protect the children of Vermont from the potential harm caused by lead in food, vitamins, and supplements.

Sec. 5. 9 V.S.A. § 2470e is amended to read:

§ 2470e. DEFINITIONS

As used in this subchapter:

(1) “Children’s product” means any consumer product marketed for use by children under the age of 12, or whose substantial use or handling by children under 12 years of age is reasonably foreseeable, including toys, furniture, jewelry, ~~vitamins and other supplements~~, personal care products, clothing, ~~food~~, and food containers and packaging.

* * *

Sec. 6. 9 V.S.A. § 4401 is amended to read:

§ 4401. RIGHTS OF RECIPIENT OF ~~MERCHANDISE~~ UNSOLICITED
GOODS OR SERVICES; ~~DEFINITION~~

~~(a) When personal property is mailed or caused to be delivered or when services are rendered to another by a person who knows the property or services to be unsolicited merchandise or services, the person to whom the merchandise is sent or delivered or for whom the services are rendered may refuse to accept delivery of the same, or he may deem it to be a gift and may use it or dispose of it in any manner without obligation to the person sending or delivering it.~~

~~(b) For purposes of this section, “unsolicited merchandise or services” shall mean any tangible personal property or services, not requested by the recipient, which is intended for personal, family or household use, and not for commercial, industrial, agricultural, or professional use.~~

(a) Except as provided in subsection (b) of this section, if a seller delivers unsolicited goods to a recipient, the recipient may:

(1) refuse the unsolicited goods; or

(2) deem the unsolicited goods to be a gift and dispose of them in any manner without obligation to the seller; provided that, in the case of a recipient who is not a natural person, before disposing of the goods, the recipient shall make a reasonable effort to notify the seller that it has received the unsolicited goods.

(b) If a seller delivers goods to a recipient in error and notifies the recipient of the error within 20 days, or before the recipient has used or disposed of the unsolicited goods, whichever is sooner, then:

(1) The seller shall provide, within 20 days of the notification of error, for the pick-up or return shipment of any remaining portion of the unsolicited goods at the seller's expense and risk, during which time the recipient shall take reasonable care of the remaining unsolicited goods. The recipient need not tender the remaining goods at any place other than the place of delivery or the location of the remaining goods at the time of the notification of error. If the recipient refuses to relinquish any remaining portion of the unsolicited goods to the seller, or agrees to relinquish the remaining unsolicited goods to the seller and fails to do so, the recipient shall be liable for the cost of the unsolicited goods not relinquished to the seller.

(2) The seller may discontinue services to the recipient. The recipient shall not be liable for any services delivered or used prior to the discontinuance of service.

(c) In this section:

(1) "Recipient" means a person who receives unsolicited goods, whether or not he or she was the intended recipient of them.

(2) "Seller" means a person who delivers, renders, or causes to be delivered or rendered unsolicited goods to a recipient, whether or not the seller intends to charge the recipient for the unsolicited goods.

(3) "Unsolicited goods" means any personal property or services delivered, rendered, or caused to be delivered or rendered by a seller to a recipient that are not requested by the recipient, whether or not the recipient and the seller have an existing business relationship.

Sec. 7. 8 V.S.A. chapter 81 is amended to read:

CHAPTER 81. GIFT CERTIFICATES

§ 2701. DEFINITIONS

As used in this chapter:

(1) "Account" means a demand deposit or share draft (checking) account, savings account, or other comparable consumer asset account (other than an occasional or incidental credit balance in a credit plan) regularly maintained by the consumer at a financial institution or at a credit union.

(2) "Financial institution" means an institution as defined in subdivision 11101(32) of this title.

(3) "Gift certificate" means a record evidencing a promise made for consideration by the seller or issuer of the record that money, goods, or services will be provided to the holder of the record for the value shown in the record. A "gift certificate" includes, but is not limited to, a record that contains a microprocessor chip, magnetic strip, or other means for the storage of information that is prefunded and for which the value is decremented upon each use; a gift card; an electronic gift card; a stored-value card or certificate; a store card; or a similar record or card. A gift certificate does not include an access device such as a debit card, code, or other means of access to a consumer's account regularly maintained at a financial institution or credit union that may be used by the consumer to access the funds in his or her account to initiate a withdrawal or to initiate an electronic funds transfer from the consumer's account.

(4) "Loyalty, award, or promotional gift certificate" means a gift certificate that is issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in connection with a loyalty, award, or promotional program and that is redeemable upon presentation to one or more merchants for goods or services or that is usable at automated teller machines.

(5) "Paid value" means the value of any money or other thing of value given in exchange for a gift certificate.

(6) "Promotional value" means any value shown on a gift certificate in excess of the paid value of the gift certificate.

§ 2702. EXPIRATION DATE

The paid value of a gift certificate sold or offered to be sold shall be valid for not less than ~~three~~ five years after its date of issuance or after the date funds were last loaded onto the gift certificate, whichever is later. The date of issuance and the expiration date shall be clearly identified on its face, or, if an electronic card with a banked dollar value, clearly printed upon a sales receipt transferred to the purchaser of the electronic card upon the completed transaction, or otherwise made available to the purchaser or holder of the electronic card through means of an ~~internet~~ Internet site or a toll free information telephone line. A gift certificate not clearly marked with an

expiration date or for which the expiration date is not otherwise made available as provided in this section shall be deemed to have no expiration date. Following the expiration date of the gift certificate, the unused portion of the paid value of the gift certificate shall be returned to the holder of the gift certificate, if requested.

§ 2702a. LOYALTY, AWARD, OR PROMOTIONAL GIFT CERTIFICATE

A loyalty, award, or promotional gift certificate shall clearly and legibly set forth the following disclosures, as applicable:

(1) A statement indicating that the gift certificate is issued for loyalty, award, or promotional purposes, which shall be included on the front of the gift certificate;

(2) The expiration date for both the paid value of the gift certificate, if any, and the promotional value of the gift certificate, if any, which shall be included on the front of the gift certificate;

(3) The amount of any fees that may be imposed in connection with the gift certificate and the conditions under which they may be imposed, which shall be provided on or with the gift certificate; and

(4) If any fee is assessed against the gift certificate, a toll-free telephone number and, if one is maintained, a website address that a consumer may use to obtain fee information, which shall be included on the gift certificate.

* * *

§ 2707. EXEMPTION

The Except as provided in this section, the provisions of this chapter shall not apply to the following:

(1) A loyalty, award, or promotional gift certificate issued pursuant to an awards or loyalty program where no money or other thing of value is given in exchange for the gift certificate, provided that the expiration date is clearly and legibly disclosed on the gift certificate complies with section 2702a of this title.

(2) The promotional value of a loyalty, award, or promotional gift certificate issued in exchange for paid value, provided that the gift certificate complies with sections 2702 and 2702a of this title.

(3) A gift certificate donated to a charitable organization and used for fund-raising activities of a charitable organization, without any money or other thing of value being given in exchange for the gift certificate by the charitable

organization, provided that the expiration date is clearly and legibly printed on the gift certificate.

(3)(4) Prepaid calling cards issued solely to provide an access number and authorization code for prepaid calling services.

~~(4) A gift certificate for a food product, provided the expiration date is clearly and legibly printed on the front or the face of the gift certificate or printed on the back of the gift certificate in at least 10-point font.~~

(5) A season pass, a discount ski card, or a record sold for admission to any seasonal recreational activity.

(6) A payroll card account issued pursuant to and in full compliance with 21 V.S.A. § 342(c).

* * *

Sec. 8. 9 V.S.A. chapter 63, subchapter 7 is added to read:

Subchapter 7. Unlicensed Loan Transactions

§ 2481w. UNLICENSED LOAN TRANSACTIONS

(a) In this subchapter:

(1) “Financial account” means a checking, savings, share, stored value, prepaid, payroll card, or other depository account.

(2) “Lender” means a person engaged in the business of making loans of money, credit, goods, or things in action and charging, contracting for, or receiving on any such loan interest, a finance charge, a discount, or consideration.

(3) “Process” or “processing” includes printing a check, draft, or other form of negotiable instrument drawn on or debited against a consumer’s financial account, formatting or transferring data for use in connection with the debiting of a consumer’s financial account by means of such an instrument or an electronic funds transfer, or arranging for such services to be provided to a lender.

(4) “Processor” means a person who engages in processing, as defined in subdivision (3) of this subsection.

(b) It is an unfair and deceptive act and practice in commerce for a lender directly or through an agent to solicit or make a loan to a consumer by any means unless the lender is in compliance with all provisions of 8 V.S.A. chapter 73 or is otherwise exempt from the requirements of 8 V.S.A. chapter 73.

(c) It is an unfair and deceptive act and practice in commerce for a processor, other than a federally insured depository institution, to process a check, draft, other form of negotiable instrument, or an electronic funds transfer from a consumer's financial account in connection with a loan solicited or made by any means to a consumer unless the lender is in compliance with all provisions of 8 V.S.A. chapter 73 or is otherwise exempt from the requirements of 8 V.S.A. chapter 73.

(d) It is an unfair and deceptive act and practice in commerce for any person, including the lender's financial institution as defined in 8 V.S.A. § 10202(5), but not including the consumer's financial institution as defined in 8 V.S.A. § 10202(5), to provide substantial assistance to a lender or processor when the person or the person's authorized agent receives notice from a regulatory, law enforcement, or similar governmental authority, or knows from its normal monitoring and compliance systems, or consciously avoids knowing that the lender or processor is in violation of subsection (b) or (c) of this section or is engaging in an unfair or deceptive act or practice in commerce.

Sec. 9. 8 V.S.A. chapter 114 is added to read:

CHAPTER 114. PORTABLE ELECTRONICS INSURANCE

§ 4257. DEFINITIONS

As used in this chapter:

(1) "Portable electronics" means electronic devices that are portable in nature, their accessories, and services related to the use of such devices.

(2) "Portable electronics insurance" means insurance which may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy that provides coverage for the repair or replacement of portable electronics against any one or more of the following causes of loss: loss, theft, inoperability due to mechanical failure, malfunction, damage, or other similar causes of loss. The term does not include a service contract governed by subchapter 4 of chapter 113 of this title, a policy of insurance covering a seller's or a manufacturer's obligations under a warranty, or a homeowner's, renter's, private passenger automobile, commercial multi-peril, or similar policy.

(3) "Portable electronics vendor" means a person in the business of selling or leasing portable electronics directly or indirectly.

§ 4258. PREMIUM BILLINGS

The charges for portable electronics insurance coverage may be billed and collected by a portable electronics vendor. Any charge to a customer for

coverage that is not included in the cost associated with the purchase or lease of portable electronics shall be separately itemized on the customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics, a portable electronics vendor shall clearly and conspicuously disclose to the customer that the portable electronics insurance coverage is included with the portable electronics. A portable electronics vendor billing and collecting such charges shall not be required to maintain such funds in a segregated account, provided that the vendor is authorized by the insurer to hold such funds in an alternative manner and remits such amounts to the insurer or the producer appointed by the insurer to supervise the administration of a portable electronics insurance program within 60 days of receipt. All funds received by a portable electronics vendor from an enrolled customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Portable electronics vendors may receive compensation for billing and collection services.

§ 4259. TERMINATION AND MODIFICATION REQUIREMENTS

Notwithstanding any other provision of law, the terms for the termination or modification of a policy of portable electronics insurance shall be as set forth in the policy.

§ 4260. NOTICE REQUIREMENTS

(a) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to the policy or is otherwise required by law, it shall be in writing. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this section. If the notice or correspondence is mailed, it shall be sent to the portable electronics vendor at the vendor's mailing address specified for such purpose and to its affected customers' last known mailing address on file with the insurer. The insurer or vendor of portable electronics shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the portable electronics vendor at the vendor's electronic mail address specified for such purpose and to its affected customers' last known electronic mail address as provided by each customer to the insurer or vendor of portable electronics. For purposes of this subsection, a customer's provision of an electronic mail address to the insurer or vendor of portable electronics shall be deemed consent to receive notices and correspondence by electronic means. The

insurer or vendor of portable electronics shall maintain proof that the notice or correspondence was sent.

(b) Notice or correspondence required pursuant to a policy of portable electronics insurance or otherwise required by law may be sent on behalf of the insurer or vendor by an insurance producer appointed by the insurer to supervise the administration of a portable electronics insurance program.

§ 4261. RULEMAKING; LICENSING; CLAIMS; SALES

The commissioner shall adopt rules establishing a business entity limited lines producer license for the sale of portable electronics insurance as well as requirements for the sale of portable electronics insurance by a vendor and its employees and authorized representatives and standards for the adjusting of claims under a policy of portable electronics insurance by a supervising entity.

Sec. 10. 8 V.S.A. § 4813a is amended to read:

§ 4813a. DEFINITIONS

For purposes of this subchapter:

* * *

(10) “Portable electronics insurance” shall have the same meaning as in subdivision 4257(2) of this title.

(11) “Portable electronics vendor” shall have the same meaning as in subdivision 4257(3) of this title.

(12) “Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(13) “Solicit” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer.

(14) “Terminate” means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer’s authority to transact insurance.

(15) “Uniform Application” means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.

(16) “Uniform Business Entity Application” means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

Sec. 11. 8 V.S.A. § 4813d is amended to read:

§ 4813d. EXCEPTIONS TO LICENSING

(a) Nothing in this subchapter shall be construed to require an insurer to obtain an insurance producer license. In this section, the term “insurer” does not include an insurer’s officers, directors, employees, subsidiaries, or affiliates.

(b) A license as an insurance producer shall not be required of the following:

* * *

(8) A person selling or offering portable electronics insurance who is an employee or authorized representative of a portable electronics vendor licensed as a limited lines insurance producer to sell, solicit, or negotiate portable electronics insurance in accordance with rules adopted by the commissioner pursuant to section 4261 of this title.

* * *

Sec. 12. PROTECTION OF OLDER CONSUMERS

On or before January 15, 2013, in collaboration with appropriate state agencies, including the department of disabilities, aging, and independent living; advocacy organizations; and other interested persons and commercial entities, the attorney general shall submit legislative and policy recommendations and rationales to the house committee on commerce and economic development on the advisability and appropriate age limits for establishing appropriate consumer protections to protect older Vermonters.

Sec. 13. 33 V.S.A. § 2607 is amended to read:

§ 2607. PAYMENTS TO FUEL SUPPLIERS

(a) The secretary of human services or designee shall certify fuel suppliers, excluding firewood and wood pellet suppliers, to be eligible to participate in the home heating fuel assistance program. Beneficiaries may use their seasonal fuel assistance benefit to obtain home heating fuel or energy only from a fuel supplier certified by the director, except that beneficiaries who heat with firewood or wood pellets may obtain their firewood or wood pellets from any supplier they choose.

(b) Certified fuel suppliers shall agree to conduct reasonable efforts in order to inform and assist beneficiaries in their service areas, maintain records of amounts and costs of all fuel deliveries, send periodic statements to customers receiving home heating fuel assistance informing them of their account’s credit or debit balance as of the last statement, deliveries or usage since that statement and the charges for such, payments made or applied,

indicating their source, since that statement, and the ending credit or debit balance. Certified fuel suppliers shall also agree to provide the secretary of human services or designee such information deemed necessary for the efficient administration of the program, ~~including information required to pay the beneficiary's benefits to the certified supplier after fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.~~

(c) Certified fuel suppliers shall not disclose the beneficiary status of recipients of home heating fuel assistance benefits, the names of recipients, or other information pertaining to recipients to anyone, except for purposes directly connected with administration of the home heating fuel assistance program or when required by law.

(d) Certified fuel suppliers shall also agree to enter into budget agreements with beneficiaries for annualized monthly payments for fuel supplies provided the beneficiary meets accepted industry credit standards, and shall grant program beneficiaries such cash discounts, preseason delivery savings, automatic fuel delivery agreements, and any other discounts granted to any other heating fuel customer or as the secretary of human services or designee may negotiate with certified fuel suppliers.

(e) The secretary of human services or designee shall provide each certified fuel supplier with a list of the households who are its customers and have been found eligible for annual home heating fuel assistance for the current year, the total amount of annual home heating fuel assistance that has been authorized for each household, and how the total amount has been allocated over the heating season. Each authorized amount shall function as a line of credit for each eligible household. The secretary or designee shall disburse authorized home heating fuel assistance benefits to certified fuel suppliers on behalf of eligible households ~~after fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.~~ Authorized benefits for oil, propane, kerosene, dyed diesel, and coal shall be paid after fuel is delivered and invoiced to the secretary or designee. Authorized benefits for electricity and natural gas shall be paid in full and credited to the eligible household's account at the same time benefit notices are issued to the eligible household.

(f) The secretary of human services or designee shall negotiate with one or more certified fuel suppliers to obtain the most advantageous pricing and; payment terms, and delivery methods possible for eligible households.

Sec. 14. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 3 (credit billing for certain home solicitation sales) shall take effect one year from the date of passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce and Economic Development agreed to and third reading ordered.

Action on Bill Postponed**H. 440**

House bill, entitled

An act relating to creating an agency and secretary of education and amending the membership and purpose of the state board of education

Was taken up and pending the reading of the report of the committee on Education, on motion of **Rep. Donovan of Burlington**, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered**H. 759**

Rep. Martin of Springfield, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

Reported in favor of its passage when by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 7620 is amended to read:

§ 7620. APPLICATION FOR CONTINUED TREATMENT

(a) If, prior to the expiration of any order issued in accordance with section 7623 of this title, the commissioner believes that the condition of the patient is such that the patient continues to require treatment, the commissioner shall apply to the court for a determination that the patient is a patient in need of further treatment and for an order of continued treatment.

(b) An application for an order authorizing continuing treatment shall contain a statement setting forth the reasons for the commissioner's determination that the patient is a patient in need of further treatment, a

statement describing the treatment program provided to the patient and the results of that course of treatment.

(c) Any order of treatment issued in accordance with section 7623 of this title shall remain in force pending the court's decision on the application.

(d) If the commissioner seeks to have the patient receive the further treatment in a secure residential recovery facility, the application for an order authorizing continuing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsection (b) of this section, a statement setting forth the reasons for the commissioner's determination that clinically appropriate treatment for the patient's condition can be provided safely only in a secure residential recovery facility.

(e) As used in this chapter:

(1) "Secure residential recovery facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual who no longer requires acute inpatient care but who does remain in need of treatment within a secure setting for an extended period of time.

(2) "Secure," when describing a residential facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.

Sec. 2. 18 V.S.A. § 7621 is amended to read:

§ 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT;
ORDERS

(a) The hearing on the application for continued treatment shall be held in accordance with the procedures set forth in sections 7613, 7614, 7615, and 7616 of this title.

(b) If the court finds that the patient is a patient in need of further treatment and requires hospitalization it shall order hospitalization for up to one year.

(c) If the court finds that the patient is a patient in need of further treatment but does not require hospitalization, it shall order nonhospitalization for up to one year. If the treatment plan proposed by the commissioner for a patient in need of further treatment includes admission to a secure residential recovery facility, the court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the secure residential recovery facility.

* * *

Sec. 3. 18 V.S.A. § 7624 is amended to read:

§ 7624. PETITION FOR INVOLUNTARY MEDICATION

(a) The commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following three conditions:

(1) has been placed in the commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility; or

(3) has been committed to the custody of the commissioner of corrections as a convicted felon and is being held in a correctional facility which is a designated facility pursuant to section 7628 of this title and for whom the department of corrections and the department of mental health have jointly determined that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H).

* * *

Sec. 4. 33 V.S.A. § 7102(11) is amended to read:

(11) "Therapeutic community residence" means a place, however named, excluding a hospital as defined by statute or the Vermont state hospital, which provides, for profit or otherwise, ~~short-term~~ transitional individualized treatment to three or more residents with major life adjustment problems, such as alcoholism, drug abuse, mental illness, or delinquency.

Sec. 5. RULE MAKING

The department of disabilities, aging, and independent living shall adopt rules pursuant to 3 V.S.A. chapter 25 amending the licensing requirements for therapeutic community residences to provide for the operation of secure residential recovery facilities. Such licensing requirements shall ensure by rule that residents of a secure residential recovery facility have rights at least equal to those provided to patients at the former Vermont State Hospital. The department shall solicit input on the proposed rule from the mental health oversight committee.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

Rep. French of Randolph, for the committee on Human Services, recommended that the report of the committee on Judiciary be amended as follows:

First: By inserting new Secs. 1 and 2 to read as follows:

Sec. 1. 18 V.S.A. § 7315 is added to read:

§ 7315. DEFINITION

As used in this chapter, the term “hospital” shall include a secure residential recovery facility as defined in subsection 7620(e) of this title.

Sec. 2. 18 V.S.A. § 7401 is amended to read:

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the commissioner shall be charged with its administration. The commissioner may:

* * *

(22) oversee and seek to have patients receive treatment in secure residential recovery facilities as defined in subsection 7620(e) of this title.

Second: In Sec. 1, 18 V.S.A. § 7620, in subdivision (e)(1), after the period, by inserting the following: A secure residential recovery facility shall not be used for any purpose other than the purposes permitted by this section.

Third: By striking Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. RULE MAKING

(a) The department of disabilities, aging, and independent living shall adopt rules pursuant to 3 V.S.A. chapter 25 amending the licensing requirements for therapeutic community residences. Such rules shall include specific requirements for the operation of secure residential recovery facilities and shall ensure that residents of a secure residential recovery facility have rights at least equal to those provided to patients at the former Vermont State Hospital.

(b)(1) If the rules required by this section are proposed before adjournment sine die of the 2011 adjourned session (2012) of the general assembly or after convening of the 2013 session of the general assembly, the department shall solicit input on the proposed rules from the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare.

(2) If the rules required by this section are proposed after adjournment sine die of the 2011 adjourned session (2012) of the general assembly and before convening of the 2013 general assembly, the department shall solicit input on the proposed rules from the mental health oversight committee and the health access oversight committee.

and by renumbering all sections to be numerically correct

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, and that the report of the committees on Judiciary and Human Services agreed to and third reading ordered.

Action on Bill Postponed

H. 467

House bill, entitled

An act relating to limited liability for a landowner who permits a person to enter the owner's land for recreational use

Was taken up and pending the reading of the report of the committee on Judiciary, on motion of **Rep. French of Shrewsbury**, action on the bill was postponed until the next legislative day.

Action on Bill Postponed

H. 512

House bill, entitled

An act relating to banking, insurance, securities and health care administration

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Botzow of Pownal**, action on the bill was postponed until the next legislative day.

Adjournment

At nine o'clock in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, March 21, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Julia Shipley, a writer, teacher and subsistence farmer from Craftsbury, VT.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 226

Senate bill, entitled

An act relating to combating illegal diversion of prescription opiates and increasing treatment resources for opiate addiction;

To the committee on Judiciary.

S. 239

Senate bill, entitled

An act relating to ensuring the humane treatment and slaughter of animals;

To the committee on Agriculture.

S. 244

Senate bill, entitled

An act relating to referral to court diversion for driving with a suspended license;

To the committee on Judiciary.

Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Calendar, affecting the revenue of the state, under the rule, were referred to the Committee on Ways and Means:

H. 773

House bill, entitled

An act relating to veterans' tax exemption

H. 774

House bill, entitled

An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths

Bill Referred to Committee on Appropriations**H. 780**

House bill, entitled

An act relating to compensation for certain state employees

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Adopted in Concurrence

J.R.S. 51

By Senators Carris and Mullin,

J.R.S. 51. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, March 22, 2012, or, Friday, March 23, 2012, it be to meet again no later than Tuesday, March 27, 2012.

Was taken up read and adopted in concurrence.

Rules Suspended; Action on Bill Postponed

H. 776

On motion of **Rep. Crawford of Burke**, the rules were suspended and House bill, entitled

An act relating to encouraging flexible pathways leading to secondary school completion and career and college readiness

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending second reading of the bill, on motion of **Rep. Crawford of Burke**, action on the bill was postponed until Tuesday, March 27, 2012.

Favorable Report; Third Reading Ordered

H. 467

Rep. Strong of Albany, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to limited liability for a landowner who permits a person to enter the owner's land for recreational use

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Senate Proposal of Amendment Concurred in**H. 512**

The Senate proposed to the House to amend House bill, entitled

An act relating to banking, insurance, securities, and health care administration

By striking Sec. 41 in its entirety and inserting in lieu thereof a new Sec. 41 to read as follows:

Sec. 41. 8 V.S.A. § 6052(b) is amended to read:

(b) Before it may offer insurance in any state, each risk retention group shall also submit for approval to the insurance commissioner of this state a plan of operation and feasibility study which includes a description of the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer, together with such additional information as the commissioner may reasonably require. In considering and approving the risk retention group's plan of operation and any subsequent amendments thereto, the commissioner may limit the net amount of risk retained by a risk retention group. The risk retention group shall submit for approval by the commissioner an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility study, including any material change in the information called for in subsection (c) of this section, but excluding the identity of policyholders and any changes in rates or rating classification systems. The group shall not offer any additional kinds of liability insurance, in this state or in any other state, until a revision of such plan or study is approved by the commissioner. The risk retention group shall inform the commissioner of any material changes in rates or rating classification systems, within 30 days of the adoption of such change.

Which proposal of amendment was considered and concurred in.

Third Reading; Bill Passed**H. 745**

House bill, entitled

An act relating to the Vermont prescription monitoring system

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered**H. 440**

Rep. Donovan of Burlington, for the committee on Education, to which had been referred House bill, entitled

An act relating to creating an agency and secretary of education and amending the membership and purpose of the state board of education

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. chapter 49 is added to read:

CHAPTER 49. EDUCATION

§ 2701. AGENCY AND SECRETARY CREATED

There is created an agency of education that shall be under the direction and supervision of a secretary of education.

§ 2702. SECRETARY OF EDUCATION

(a) With the advice and consent of the senate, the governor shall appoint a secretary of education from among no fewer than three candidates proposed by the state board of education.

(b) The secretary shall report directly to the governor and shall be a member of the governor's cabinet.

(c) At the time of appointment, the secretary shall have expertise in public education management and policy and demonstrated leadership and management abilities.

Sec. 2. 16 V.S.A. § 161 is amended to read:

§ 161. STATE BOARD OF EDUCATION; APPOINTMENT OF MEMBERS; TERM; VACANCY

The state board shall consist of ten members. Two of the members shall be secondary students, one of whom shall be a full member and the other of whom shall be a junior member who may not vote. All members shall be appointed by the governor with the advice and consent of the senate. In the appointment of the nonstudent members ~~consideration~~, priority shall be given to the selection of ~~such persons as shall adequately represent all sections of the state~~ with a demonstrated commitment to public education. To the extent possible, the members shall represent geographically diverse areas of the state.

(1) Upon the expiration of the respective terms of those members of the board previously appointed, excluding the student members, the governor shall, biennially in the month of February with the advice and consent of the senate, appoint members ~~thereto~~ for terms of ~~six~~ three years. The terms shall begin March 1 of the year in which the appointments are made. ~~A member serving a term of six years shall not be eligible for reappointment for successive terms~~ A nonstudent member is eligible for reappointment provided that the total number of years to be served will not exceed nine years.

* * *

Sec. 3. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD, GENERAL POWERS AND DUTIES

The state board shall ~~have supervision over, and management of the department of education and the public school system, except as otherwise provided; and shall~~ review and evaluate education policy presented by the governor and secretary, establish policies to guide the work of the agency, and engage local school board members and the broader education community. In addition to other specified duties, the board shall:

* * *

(4) ~~Biennially or as required by the governor cause to be prepared a budget for all money to be expended by the department of education~~ Guide preparation of and submit an agency budget to the governor.

* * *

(10) ~~Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices which improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment.~~ [Repealed.]

* * *

(19) ~~Develop, in consultation with the secretary of state, and make available to school boards, sample ballot language for items which may be voted on by Australian ballot and for which no statutory language exists.~~ [Repealed.]

* * *

(21) Report annually to the governor and the general assembly on the progress the board has made in establishing policies to guide the work of the agency and engaging the citizens of Vermont.

(22) Work with the secretary and agency to ensure that a new member of the board receives orientation within 60 days of appointment regarding essential elements of Vermont's education system, including an overview of education funding; school quality standards; the prekindergarten-16 continuum; the structure of education delivery, including the role of local boards and locally appointed administrators; student performance on standardized assessments; and policies governing the agency, including indicators to monitor progress and ensure accountability.

Sec. 4. 16 V.S.A. § 212(18) and (19) are added to read:

(18) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices that improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment.

(19) Develop, in consultation with the secretary of state, and make available to school boards sample ballot language for issues that may be decided by Australian ballot and for which no statutory language exists.

Sec. 5. REPEAL

16 V.S.A. § 211 (appointment of commissioner by board of education; commissioner's reports to board) is repealed.

* * * Transition * * *

Sec. 6. STATE BOARD OF EDUCATION; MEMBERSHIP;
APPOINTMENT

(a) Notwithstanding the provisions of 16 V.S.A. § 161 as amended by Sec. 2 of this act, the term of any nonstudent member of the state board of education who was appointed and is a member before March 1, 2013 shall expire at the end of the original six-year term to which the member was appointed.

(b) The governor shall appoint new members pursuant to the terms of 16 V.S.A. § 161 as amended by this act upon the expiration of a term or a vacancy occurring on or after March 1, 2013.

Sec. 7. AGENCY OF EDUCATION; SECRETARY OF EDUCATION;
POWERS AND DUTIES

On March 1, 2013:

(1) the secretary of education shall assume all the powers, duties, rights, and responsibilities of the commissioner of education; and

(2) the agency of education shall assume all the powers, duties, rights, and responsibilities of the department of education.

Sec. 8. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

On or before January 15, 2013, the legislative council shall prepare and submit a draft bill to the house and senate committees on education that makes statutory amendments of a technical nature and identifies all statutory sections that the general assembly must amend substantively to effect the intent of this act.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 6 through 8 (transitional provisions) of this act shall take effect on passage.

(b) Secs. 1–5 of this act shall take effect on February 1, 2013.

and that after passage the title of the bill be amended to read: “An act relating to creating an agency and secretary of education and clarifying the purpose of the state board of education”

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be amended as recommended by the Committee on Education? **Rep. Donaghy of Poultney** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by the Committee on Education? was decided in the affirmative. Yeas, 114. Nays, 17.

Those who voted in the affirmative are:

Acinapura of Brandon	Burke of Brattleboro	Dakin of Chester
Ancel of Calais	Buxton of Tunbridge	Deen of Westminster
Andrews of Rutland City	Campion of Bennington	Degree of St. Albans City
Aswad of Burlington	Canfield of Fair Haven	Devereux of Mount Holly
Atkins of Winooski	Cheney of Norwich	Dickinson of St. Albans
Bartholomew of Hartland	Christie of Hartford *	Town
Batchelor of Derby	Clark of Vergennes	Donaghy of Poultney
Bissonnette of Winooski	Clarkson of Woodstock	Donahue of Northfield
Botzow of Pownal	Condon of Colchester	Donovan of Burlington
Bouchard of Colchester	Consejo of Sheldon	Eckhardt of Chittenden
Branagan of Georgia	Corcoran of Bennington	Edwards of Brattleboro
Brennan of Colchester	Courcelle of Rutland City	Emmons of Springfield
Browning of Arlington	Crawford of Burke	Fagan of Rutland City *

Frank of Underhill	Lawrence of Lyndon	Poirier of Barre City
French of Shrewsbury	Lenes of Shelburne	Potter of Clarendon
Gilbert of Fairfax	Leriche of Hardwick	Pugh of South Burlington
Grad of Moretown	Lewis of Berlin	Ralston of Middlebury
Greshin of Warren	Lewis of Derby	Ram of Burlington
Head of South Burlington	Lippert of Hinesburg	Reis of St. Johnsbury
Hebert of Vernon	Macaig of Williston	Russell of Rutland City
Helm of Fair Haven	Malcolm of Pawlet	Savage of Swanton
Hooper of Montpelier	Marcotte of Coventry	Scheuermann of Stowe
Howard of Cambridge	Marek of Newfane	Shand of Weathersfield
Howrigan of Fairfield	Martin of Springfield	Sharpe of Bristol
Hubert of Milton	Martin of Wolcott	Shaw of Pittsford
Jerman of Essex	Masland of Thetford	Smith of New Haven
Jewett of Ripton	McCullough of Williston	Strong of Albany
Johnson of South Hero	McFaun of Barre Town	Stuart of Brattleboro
Johnson of Canaan	McNeil of Rutland Town	Taylor of Barre City
Kitzmiller of Montpelier	Mrowicki of Putney	Turner of Milton
Klein of East Montpelier	Munger of South Burlington	Webb of Shelburne
Koch of Barre Town	Myers of Essex	Wilson of Manchester
Komline of Dorset	Nuovo of Middlebury	Winters of Williamstown
Krebs of South Hero	O'Sullivan of Burlington	Wizowaty of Burlington
Krowinski of Burlington	Partridge of Windham	Wright of Burlington *
Kupersmith of South Burlington	Pearce of Richford	Yantachka of Charlotte
Lanpher of Vergennes	Peaslee of Guildhall	Young of Glover
Larocque of Barnet	Peltz of Woodbury	Zagar of Barnard
	Perley of Enosburgh	

Those who voted in the negative are:

Conquest of Newbury	Kilmartin of Newport City *	Stevens of Shoreham
Davis of Washington	Manwaring of Wilmington	Till of Jericho
Evans of Essex	Mook of Bennington	Toll of Danville
French of Randolph	Moran of Wardsboro	Townsend of Randolph
Heath of Westford	Olsen of Jamaica	Waite-Simpson of Essex
Keenan of St. Albans City	Pearson of Burlington	

Those members absent with leave of the House and not voting are:

Bohi of Hartford	Higley of Lowell	Spengler of Colchester
Burditt of West Rutland	Lorber of Burlington	Stevens of Waterbury
Copeland-Hanzas of Bradford	McAllister of Highgate	Sweeney of Windsor
Ellis of Waterbury	Miller of Shaftsbury	Trieber of Rockingham
Fisher of Lincoln	Morrissey of Bennington	Woodward of Johnson
Haas of Rochester	O'Brien of Richmond	
	South of St. Johnsbury	

Rep. Christie of Hartford explained his vote as follows:

“Mr. Speaker:

I started working with our Vermont children in 1980, at that time our Department of Education was a vibrant resource to this evolving educator. As I progressed through my career as a coach, teacher, school administrator, therapeutic case manager, school board member and school board chair, our Vermont Department of Education has been reduced to a much less responsive resource to the children and educators of Vermont.

From the year 2000 to the present, the Department has been cut by 47 positions, a 24% reduction.

We all have to do more with less, yet my contention is that no Governor, who had full responsibility for education in Vermont, would have allowed the Department to come to the less supportive level it is now. That is why I voted 'yes' today on H. 440."

Rep. Fagan of Rutland City explained his vote as follows:

"Mr. Speaker:

I support this bill with the hope that because the Governor shall appoint a Secretary of Education perhaps he shall stop raiding the Education Fund to fund other purposes."

Rep. Kilmartin of Newport City explained his vote as follows:

"Mr. Speaker:

I vote 'no'. This bill makes our children's education subject to the worst and most destructive aspects of partisan politics and ideological agendas that cut to the heart of parental rights and obligations and the rights of our young people to be free of political indoctrination. It creates instability, insecurity and removes the 'checks and balances' of our current system. A very bad piece of legislation!"

Rep. Wright of Burlington explained his vote as follows:

"Mr. Speaker:

I supported this idea under the previous Governor when the proposal did not have sufficient support to make it out of committee. Despite legitimate concerns, on balance it was a good idea then and remains a good idea now."

Thereupon, third reading was ordered.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 78

House bill, entitled

An act relating to wages for laid-off employees

H. 157

House bill, entitled

An act relating to restrictions on tanning beds

H. 412

House bill, entitled

An act relating to harassment and bullying in educational settings

H. 459

House bill, entitled

An act relating to approval of amendments to the charter of the town of Brattleboro

Bill Amended, Read Third Time and Passed**H. 468**

House bill, entitled

An act relating to a renewable portfolio standard and the Sustainably Priced Energy Enterprise Development Program

Was taken up and pending third reading of the bill, **Reps. Browning of Arlington, Komline of Dorset, Pearson of Burlington and Poirier of Barre City** moved to amend the bill as follows:

First: By adding Sec. 16a to read as follows:

Sec. 16a. WINDFALL SHARING MECHANISM; PAYBACK

(a) The public service board may not approve the acquisition of one electric company by another or the merger of multiple electric companies unless, as a condition of such acquisition or merger, there will be a direct cash repayment to current ratepayers, based on their rate class, of the full amount of funds subject to any windfall sharing mechanism previously established by the board that is applicable to the electric company to be acquired or to one or more of the merging electric companies,

(b) Notwithstanding 1 V.S.A. §§ 213 and 214, subsection (a) of this section shall apply to all petitions filed with the public service board on or after September 1, 2011.

Second: In Sec. 17, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) This section and Secs. 1 (renewable energy chapter; goals), 2 (renewable energy chapter; definitions), 3 (renewable portfolio standards), 4 (SPEED; total renewables targets); 5 (SPEED; standard offer program), 6 (standard offer; prior capacity; interconnection application), 14 (total energy; report) and 16a (windfall sharing mechanism; payback of this act shall take effect on passage.

Thereupon, **Rep. Deen of Westminster** raised a Point of Order that the amendment was not germane to the bill, which Point of Order the Speaker ruled well taken.

Pending third reading of the bill, **Rep. Jerman of Essex** moved to amend the bill as follows:

In Sec. 7, 30 V.S.A. § 8005b (renewable energy programs; biennial report), in subsection (b), after subdivision (7), by inserting a new subdivision to be numbered (8) to read:

(8) An assessment of whether strict compliance with the requirements of section 8004 (renewable portfolio standards) or 8005a (SPEED program; standard offer) of this title will cause one or more retail electricity providers to incur unexpected costs that will impair the provider's ability to meet the public's need for energy services in the manner set forth under section 218c of this title (least-cost integrated planning) and, if so, whether statutory changes should be made to grant providers additional flexibility in meeting one or more of those requirements.

and by renumbering subdivision (8) to be subdivision (9)

Pending the question, Shall the bill be amended as offered by Rep. Jerman of Essex? **Rep. Evans of Essex** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Jerman of Essex? was decided in the affirmative. Yeas, 135. Nays, 2.

Those who voted in the affirmative are:

Acinapura of Brandon	Bartholomew of Hartland	Botzow of Pownal
Ancel of Calais	Batchelor of Derby	Bouchard of Colchester
Andrews of Rutland City	Bissonnette of Winooski	Branagan of Georgia
Atkins of Winooski	Bohi of Hartford	Brennan of Colchester

Browning of Arlington	Hooper of Montpelier	Olsen of Jamaica
Burke of Brattleboro	Howard of Cambridge	O'Sullivan of Burlington
Buxton of Tunbridge	Hubert of Milton	Partridge of Windham
Campion of Bennington	Jerman of Essex	Pearce of Richford
Canfield of Fair Haven	Jewett of Ripton	Pearson of Burlington
Cheney of Norwich	Johnson of South Hero	Peaslee of Guildhall
Christie of Hartford	Johnson of Canaan	Peltz of Woodbury
Clark of Vergennes	Keenan of St. Albans City	Perley of Enosburgh
Clarkson of Woodstock	Kilmartin of Newport City	Poirier of Barre City
Condon of Colchester	Kitzmiller of Montpelier	Potter of Clarendon
Conquest of Newbury	Klein of East Montpelier	Pugh of South Burlington
Consejo of Sheldon	Koch of Barre Town	Ralston of Middlebury
Copeland-Hanzas of	Komline of Dorset	Ram of Burlington
Bradford	Krebs of South Hero	Reis of St. Johnsbury
Corcoran of Bennington	Krowinski of Burlington	Russell of Rutland City
Courcelle of Rutland City	Kupersmith of South	Savage of Swanton
Crawford of Burke	Burlington	Scheuermann of Stowe
Dakin of Chester	Lanpher of Vergennes	Shand of Weathersfield
Deen of Westminster	Larocque of Barnet	Sharpe of Bristol
Degree of St. Albans City	Lawrence of Lyndon	Shaw of Pittsford
Devereux of Mount Holly	Lenes of Shelburne	Smith of New Haven
Dickinson of St. Albans	Leriche of Hardwick	South of St. Johnsbury
Town	Lewis of Derby	Stevens of Waterbury
Donaghy of Poultney	Lippert of Hinesburg	Stevens of Shoreham
Donahue of Northfield	Macaig of Williston	Strong of Albany
Donovan of Burlington	Malcolm of Pawlet	Stuart of Brattleboro
Eckhardt of Chittenden	Manwaring of Wilmington	Sweaney of Windsor
Edwards of Brattleboro	Marcotte of Coventry	Taylor of Barre City
Emmons of Springfield	Marek of Newfane	Till of Jericho
Evans of Essex	Martin of Springfield	Toll of Danville
Fagan of Rutland City	Martin of Wolcott	Townsend of Randolph
Fisher of Lincoln	Masland of Thetford	Turner of Milton
Frank of Underhill	McCullough of Williston	Waite-Simpson of Essex
French of Shrewsbury	McFaun of Barre Town	Webb of Shelburne
French of Randolph	McNeil of Rutland Town	Wilson of Manchester
Gilbert of Fairfax	Mook of Bennington	Winters of Williamstown
Grad of Moretown	Moran of Wardsboro	Wizowaty of Burlington
Greshin of Warren	Mrowicki of Putney	Woodward of Johnson
Head of South Burlington	Munger of South Burlington	Wright of Burlington
Heath of Westford	Myers of Essex	Yantachka of Charlotte
Hebert of Vernon	Nuovo of Middlebury	Young of Glover
Helm of Fair Haven	O'Brien of Richmond	Zagar of Barnard

Those who voted in the negative are:

Howrigan of Fairfield	Lewis of Berlin

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Burditt of West Rutland	Davis of Washington

Ellis of Waterbury
Haas of Rochester
Higley of Lowell

Lorber of Burlington
McAllister of Highgate
Miller of Shaftsbury

Morrissey of Bennington
Spengler of Colchester
Trieber of Rockingham

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Turner of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 91. Nays, 46.

Those who voted in the affirmative are:

Ancel of Calais
Andrews of Rutland City
Atkins of Winooski
Bartholomew of Hartland
Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Canfield of Fair Haven
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Conquest of Newbury
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Courcelle of Rutland City
Dakin of Chester
Deen of Westminster
Donovan of Burlington
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fisher of Lincoln
Frank of Underhill
French of Shrewsbury
French of Randolph
Gilbert of Fairfax
Grad of Moretown

Head of South Burlington
Heath of Westford
Helm of Fair Haven
Hooper of Montpelier
Howard of Cambridge
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Kitzmiller of Montpelier
Klein of East Montpelier
Krebs of South Hero
Krowinski of Burlington
Kupersmith of South
Burlington
Lanpher of Vergennes
Larocque of Barnet
Lenes of Shelburne
Leriche of Hardwick
Lippert of Hinesburg
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCullough of Williston
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney

Munger of South Burlington
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearson of Burlington
Peaslee of Guildhall
Peltz of Woodbury
Poirier of Barre City
Potter of Clarendon
Pugh of South Burlington
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Shand of Weathersfield
Sharpe of Bristol
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toll of Danville
Townsend of Randolph
Waite-Simpson of Essex
Webb of Shelburne
Wilson of Manchester
Wizowaty of Burlington
Wright of Burlington
Yantachka of Charlotte
Zagar of Barnard

Those who voted in the negative are:

Acinapura of Brandon
Batchelor of Derby
Bouchard of Colchester
Branagan of Georgia

Brennan of Colchester
Browning of Arlington
Clark of Vergennes
Condon of Colchester

Consejo of Sheldon
Crawford of Burke
Degree of St. Albans City
Devereux of Mount Holly

Dickinson of St. Albans Town	Koch of Barre Town	Reis of St. Johnsbury
Donaghy of Poultney	Komline of Dorset	Savage of Swanton
Donahue of Northfield	Lawrence of Lyndon	Scheuermann of Stowe
Eckhardt of Chittenden	Lewis of Berlin	Shaw of Pittsford
Fagan of Rutland City	Lewis of Derby	Smith of New Haven
Greshin of Warren	Marcotte of Coventry	South of St. Johnsbury
Hebert of Vernon	McFaun of Barre Town	Strong of Albany
Howrigan of Fairfield	McNeil of Rutland Town	Turner of Milton
Hubert of Milton	Myers of Essex *	Winters of Williamstown
Johnson of Canaan	Olsen of Jamaica	Woodward of Johnson
Kilmartin of Newport City *	Pearce of Richford	Young of Glover
	Perley of Enosburgh	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Haas of Rochester	Miller of Shaftsbury
Burditt of West Rutland	Higley of Lowell	Morrissey of Bennington
Davis of Washington	Lorber of Burlington	Spengler of Colchester
Ellis of Waterbury	McAllister of Highgate	Trieber of Rockingham

Rep. Marek explained his vote as follows:

“Mr. Speaker:

This bill represents another major step toward Vermont’s responsibly facing the problem of global warming and creating a future based on renewables rather than foreign oil. Vermont values were well served by its approval by such a strong majority.”

Rep. Myers of Essex explained her vote as follows:

“Mr. Speaker:

I voted no on this bill yesterday and I voted no today. I will always vote no on any bill that would adversely affect a major employer in my community.”

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

This bill partakes of a ‘flat earth mentality’. It ignores and precludes innovation. It puts the pedal to the metal of that big boat of a convertible in the last scene of *Thelma and Louise*.”

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

Employers and employees across Vermont have written to express their concerns about H.468 which will increase renewable energy mandates on

Vermont utilities through a Renewable Portfolio Standard (RPS) and related mechanisms.

H.468 has been advanced with the stated goals of reducing greenhouse gas emissions and promoting the renewable energy sectors in Vermont's economy. However, these otherwise laudable goals do not justify the costs entailed for Vermont employers and the economy as a whole. We believe that these goals can be achieved in a more cost effective manner.

Electricity costs, reliability, and quality are critical concerns for Vermont employers, especially high value employers who tend to be energy intensive. Average electric costs in Vermont for commercial and industrial customers have run 30% to 40% higher than the average in the other lower 48 states against which we compete for jobs, investment, and markets. Our rates are already increasing owing to factors including existing renewable energy mandates, the loss of Vermont Yankee power contracts, and looming regional reliability projects. Additional rate increases owing to new renewable energy mandates, particularly those that focus on smaller scale, less cost-effective and reliable generators, would exacerbate these increases.

Vermont already has one of the cleanest electric portfolios in the country and more dependence on renewable energy than other states with an RPS are seeking to reach. Vermont utilities have pointed to existing regulatory requirements and market expectations to support the conclusion that Vermont's dependence on renewable energy is unlikely to decline in any meaningful way going forward, even if no further renewable mandates are enacted.

Passing H.468 commits Vermont to a twenty-year policy that would lock us into even higher electric rates with only a very modest impact on greenhouse gas emissions, which on balance is not in the best interest of Vermont companies and working Vermonters and their families. Vermont can better promote our renewable energy sector through other economic development policies that could in fact benefit Vermont companies more broadly and we can have a more cost-effective impact on our greenhouse gas emissions by looking to sources outside our electric portfolio."

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 484

House bill, entitled

An act relating to amendment to the Windham solid waste district charter

H. 498

House bill, entitled

An act relating to parity for primary mental health care services

H. 550

House bill, entitled

An act relating to the Vermont administrative procedure act

H. 627

House bill, entitled

An act relating to an opiate addiction treatment system

H. 640

House bill, entitled

An act relating to promoting tourism and marketing

H. 691

House bill, entitled

An act relating to prohibiting collusion as an antitrust violation

Bill Amended, Read Third Time and Passed**H. 699**

House bill, entitled

An act relating to scrap metal processors

Was taken up and pending third reading of the bill, **Rep. Russell of Rutland City** moved to amend the bill as follows:

First: In Sec. 1, by striking 9 V.S.A. § 3022 in its entirety and inserting in lieu thereof a new section 3022 to read:

**§ 3022. PURCHASE OF NONFERROUS SCRAP, METAL ARTICLES,
AND PROPRIETARY ARTICLES**

(a) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles directly from an authorized scrap metal seller or the seller's authorized agent or employee.

(b) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles from a person who is not an authorized scrap metal seller or the seller's authorized agent or employee, ~~provided~~ only if the scrap processor complies with all the following procedures:

(1) At the time of sale,;

~~(A) requires~~ Requires the seller to provide a current government-issued photographic identification that indicates the seller's full name, current address, and date of birth, and records in a permanent ledger the identification information of the seller, the time and date of the transaction, the license number of the seller's vehicle, and a description of the items received from the seller. ~~This information shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.~~

~~(2)(B)~~ Requests and, if available, collects documentation from the seller of the items offered for sale, such as a bill of sale, receipt, letter of authorization, or similar evidence that establishes that the seller lawfully owns the items to be sold.

~~(3)(2)~~ After purchasing an item from a person who fails to provide documentation pursuant to subdivision ~~(2)(1)(B)~~ of this subsection ~~(b) of this section,;~~

~~(A) submits~~ Submits to the ~~local law enforcement agency~~ department of public safety no later than the close of the following business day a report that describes the item and the seller's identifying information required in subdivision (1)~~(A)~~ of this subsection, ~~and.~~

~~(B) holds~~ Holds the proprietary article for at least 15 days following purchase.

(c) The information collected by a scrap metal processor pursuant to this section shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.

Second: In Sec. 2, in subdivision (1), by striking "~~(b)(3)~~" and inserting in lieu thereof "(b)(2)(A)"

Which was agreed to. Thereupon, the bill was read the third time and passed.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 730

House bill, entitled

An act relating to miscellaneous consumer protection laws

H. 747

House bill, entitled

An act relating to cigarette manufacturers

H. 751

House bill, entitled

An act relating to jurisdiction of delinquency proceedings

H. 759

House bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

H. 768

House bill, entitled

An act relating to ignition interlock restricted driver's licenses and civil suspensions

Third Reading; Bill Passed**H. 769**

House bill, entitled

An act relating to department of environmental conservation fees

Was taken up and read the third time.

Pending the question, Shall the bill pass? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 86. Nays, 47.

Those who voted in the affirmative are:

Ancel of Calais

Atkins of Winooski

Bartholomew of Hartland

Bissonnette of Winooski

Bohi of Hartford

Botzow of Pownal

Burke of Brattleboro

Buxton of Tunbridge

Campion of Bennington

Cheney of Norwich

Christie of Hartford

Clarkson of Woodstock

Condon of Colchester
 Conquest of Newbury
 Consejo of Sheldon
 Copeland-Hanzas of
 Bradford
 Corcoran of Bennington
 Courcelle of Rutland City
 Dakin of Chester
 Davis of Washington
 Deen of Westminster
 Donahue of Northfield
 Donovan of Burlington
 Edwards of Brattleboro
 Ellis of Waterbury
 Emmons of Springfield
 Evans of Essex
 Frank of Underhill
 French of Shrewsbury
 French of Randolph
 Gilbert of Fairfax
 Grad of Moretown
 Head of South Burlington
 Heath of Westford
 Hooper of Montpelier
 Jerman of Essex
 Jewett of Ripton

Johnson of South Hero
 Keenan of St. Albans City
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Krowinski of Burlington
 Kupersmith of South
 Burlington
 Lanpher of Vergennes
 Lenes of Shelburne
 Leriche of Hardwick
 Lippert of Hinesburg
 Macaig of Williston
 Malcolm of Pawlet
 Manwaring of Wilmington
 Marek of Newfane
 Martin of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 Mook of Bennington
 Moran of Wardsboro
 Mrowicki of Putney
 Munger of South Burlington
 Nuovo of Middlebury
 O'Brien of Richmond
 O'Sullivan of Burlington

Partridge of Windham
 Peltz of Woodbury
 Poirier of Barre City
 Potter of Clarendon
 Pugh of South Burlington
 Ralston of Middlebury
 Ram of Burlington
 Russell of Rutland City
 Shand of Weathersfield
 Sharpe of Bristol
 South of St. Johnsbury
 Stevens of Waterbury
 Stuart of Brattleboro
 Sweaney of Windsor
 Taylor of Barre City
 Till of Jericho
 Toll of Danville
 Waite-Simpson of Essex
 Webb of Shelburne
 Wilson of Manchester
 Wizowaty of Burlington
 Woodward of Johnson
 Yantachka of Charlotte
 Young of Glover

Those who voted in the negative are:

Acinapura of Brandon
 Andrews of Rutland City
 Batchelor of Derby
 Bouchard of Colchester
 Branagan of Georgia
 Brennan of Colchester
 Browning of Arlington
 Canfield of Fair Haven
 Crawford of Burke
 Degree of St. Albans City
 Devereux of Mount Holly
 Dickinson of St. Albans
 Town
 Donaghy of Poultney
 Eckhardt of Chittenden
 Fagan of Rutland City

Greshin of Warren
 Hebert of Vernon
 Helm of Fair Haven
 Howard of Cambridge
 Howrigan of Fairfield
 Hubert of Milton
 Johnson of Canaan
 Kilmartin of Newport City
 Koch of Barre Town
 Krebs of South Hero
 Larocque of Barnet
 Lawrence of Lyndon
 Lewis of Berlin
 Lewis of Derby
 Marcotte of Coventry
 McAllister of Highgate

McFaun of Barre Town
 McNeil of Rutland Town
 Myers of Essex
 Pearce of Richford
 Peaslee of Guildhall
 Perley of Enosburgh
 Reis of St. Johnsbury
 Savage of Swanton
 Scheuermann of Stowe
 Shaw of Pittsford
 Smith of New Haven
 Strong of Albany
 Townsend of Randolph
 Turner of Milton
 Winters of Williamstown
 Wright of Burlington

Those members absent with leave of the House and not voting are:

Aswad of Burlington
 Burditt of West Rutland

Clark of Vergennes
 Fisher of Lincoln

Haas of Rochester
 Higley of Lowell

Komline of Dorset
Lorber of Burlington
Miller of Shaftsbury
Morrissey of Bennington

Olsen of Jamaica
Pearson of Burlington
Spengler of Colchester
Stevens of Shoreham

Trieber of Rockingham
Zagar of Barnard

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 770

House bill, entitled

An act relating to the state's transportation program

H. 771

House bill, entitled

An act relating to making technical corrections and other miscellaneous changes to education law

H. 772

House bill, entitled

An act relating to allocation of federal rental subsidies

Message from the Senate No. 30

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 106. An act relating to miscellaneous changes to municipal government law.

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

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

J.R.H. 30. Joint resolution authorizing 2012 Green Mountain Girls' State to conduct a civic education program at the State House.

J.R.H. 31. Joint resolution urging Congress to designate March 29 as Vietnam Veterans Day.

And has adopted the same in concurrence.

Adjournment

At four o'clock and thirty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock in the forenoon.

Thursday, March 22, 2012

At nine o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Union School students Kid Pan Alley program, Montpelier, VT.

Committee Bill Introduced

H. 782

Rep. Ancel of Calais, for the committee on Ways and Means, introduced a bill, entitled

An act relating to miscellaneous tax changes for 2012

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

H. 783

By Reps. Kupersmith of South Burlington, Lenes of Shelburne and Webb of Shelburne,

House bill, entitled

An act relating to private highway–rail grade crossings;

To the committee on Transportation.

Senate Bill Referred

S. 106

Senate bill, entitled

An act relating to miscellaneous changes to municipal government law

Was read and referred to the committee on Government Operations.

Rep. Leriche of Hardwick in Chair.

Joint Resolution Referred to Committee**J.R.H. 32**

Joint resolution criticizing the March *Reader's Digest* article "Are You Normal or Nuts?"

Offered by: Representatives Donahue of Northfield, Acinapura of Brandon, Andrews of Rutland City, Batchelor of Derby, Bohi of Hartford, Botzow of Pownal, Branagan of Georgia, Browning of Arlington, Clark of Vergennes, Consejo of Sheldon, Copeland-Hanzas of Bradford, Deen of Westminster, Donaghy of Poultney, Edwards of Brattleboro, Fagan of Rutland City, Fisher of Lincoln, Frank of Underhill, French of Randolph, Grad of Moretown, Greshin of Warren, Hooper of Montpelier, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Koch of Barre Town, Krowinski of Burlington, Leriche of Hardwick, Lewis of Derby, Lippert of Hinesburg, Macaig of Williston, Manwaring of Wilmington, McCullough of Williston, McFaun of Barre Town, Mrowicki of Putney, Munger of South Burlington, Poirier of Barre City, Pugh of South Burlington, Ram of Burlington, Spengler of Colchester, Strong of Albany, Stuart of Brattleboro, Sweaney of Windsor, Till of Jericho, Trieber of Rockingham and Wizowaty of Burlington

Whereas, the era when mental disabilities are publicly stigmatized should be history, but unfortunately this unwarranted negativity persists in 2012, and

Whereas, the state of Vermont has striven to eliminate the demeaning of mental health care through the enactment of Act 25 of 1997, which mandated mental health and substance abuse insurance coverage parity, and

Whereas, in 2011, Act 24 provided for a study to "recommend guidelines for using respectful language when referring to people with disabilities" in Vermont law, and

Whereas, *Reader's Digest* is a broadly distributed popular magazine reporting on many aspects of American society in articles that are designed for a general readership, and

Whereas, the March 2012 issue of *Reader's Digest* includes an article entitled "Are You Normal or Nuts?" employing a descriptive term for persons with mental disabilities that is among the most disparaging in the English language, and

Whereas, the disparaging message that this article conveys is exacerbated to an immeasurable degree by the magazine's cover illustration portraying a large peanut over which the article's title is superimposed, and

Whereas, this disgraceful graphic illustration also includes in small font the message “Warning: This issue may contain nuts,” under which an arrow points at the cover-dominating peanut, and

Whereas, in one paragraph, the article uses the word “certifiable,” which means certified by a court as requiring involuntary and locked treatment and therefore suggesting that a person with a mental illness always requires involuntary confinement, and

Whereas, a symbolically naive illustration in the article depicts a mentally disabled man sleeping and dreaming that he is the comic book character Superman, with an inserted inscription pointing to the sleeper stating “I’M A BIRD, I’M A PLANE,” and which, as the only illustration of a person with a mental illness, supports a stigmatized view of mental illness and its treatment, and

Whereas, the article was presented as a serious discussion regarding symptoms of mental illness, and

Whereas, that a leading national magazine could be so cavalier about a serious health condition that affects millions of Americans should disappoint and sadden Vermonters, and

Whereas, according to the World Health Organization, “mental illnesses (including depression, bipolar disorder, and schizophrenia) account for nearly 25% of all disability across major industrialized countries,” and

Whereas, as stated on the website of the federal Substance Abuse and Mental Health Services Administration (SAMHSA), “words have power to teach . . . to wound . . . to shape the way people think, feel, and act toward others . . . (and) when a stigmatized group of people, such as those with mental illnesses, is struggling for increased understanding and acceptance, attention to the language used in talking and writing about them is particularly important,” and

Whereas, SAMHSA has recommended “a national campaign to reduce the stigma of seeking care” for mental illness because “stigma impedes people from getting the care they need . . . and is a pervasive barrier to understanding the gravity of mental illnesses,” and

Whereas, the goals and work of SAMHSA and every mental health advocacy group in our country to remove the stigma associated with seeking care and treatment for mental disabilities has been severely impeded as a result of this cavalierly crafted and thoughtlessly presented *Reader’s Digest* article, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly criticizes *Reader's Digest* for the publication in the March 2012 issue of the article "Are You Normal or Nuts?" and requests that the magazine immediately issue a public apology that would be published as soon as possible in a forthcoming issue, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Reader's Digest Association President and Chief Executive Officer Robert E. Guth in New York.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on General, Housing and Military Affairs.

Joint Concurrent Resolution Adopted

S.C.R. 39

Whereas, Robert (Bob) Gannett's presence graced the General Assembly during his four terms in the House of Representatives as the member from Brattleboro (1953–1960) and later for ten terms as the senator from Windham County (1973–1992), and

Whereas, when the newly elected Representative Bob Gannett arrived in Montpelier in January 1953, his legal expertise as a respected attorney was acknowledged with his assignment to the Committee on Judiciary, and

Whereas, in 1955, Representative Bob Gannett was appointed to the Committee on Appropriations, and his rapid mastery of budgetary minutiae was a prelude to his service as committee chair during the 1957 and 1959 biennia, and

Whereas, a keen observer of the parliamentary process, in 1957 he served as Speaker Pro Tempore while presiding over the House's deliberations, and

Whereas, near the close of the 1960 Adjourned Session, Representative Bob Gannett's final year in the House of Representatives, his colleagues voted him President of the House of 1959, an organization the members formed for the purpose of holding reunions, and

Whereas, in 1972, the voters of Windham County elected Robert Gannett as their new senator, and he became one of the Senate's most esteemed members, and

Whereas, in his initial senatorial biennium, Senator Bob Gannett sat on the Finance, General and Military, and Highway Traffic committees, and

Whereas, in 1975, he resumed his role as a legislative budget scrutinizer with his appointment as Vice Chair of the Committee on Appropriations, and he subsequently earned the rare distinction of chairing this all-important committee in both the House and the Senate, and

Whereas, the Committee on General and Military Affairs also benefited from his astute leadership as vice chair and chair, and while serving as Chair of the Committee on Institutions, Senator Bob Gannett was a strong advocate, as was his late wife Sarah Alden (Aldie) Derby Gannett, of state financial assistance for the establishment of a permanent corridor for the Long Trail, helping to create a legacy that will endure for generations to come, and

Whereas, during his senatorial career, his committee assignments also included Senate Government Operations, Senate Transportation, and Joint Fiscal, and his wise parliamentary counsel proved invaluable on both the committees on Senate Rules and Joint Rules, and

Whereas, on the morning of Sunday, April 26, 1992, Senator Bob Gannett concluded his long and illustrious legislative service when he offered the final motion of the 1992 Adjourned Session directing that the President of the Senate appoint a committee to inform the Governor that the Senate was ready to adjourn sine die, and

Whereas, his wealth of common sense, wise judgment, and concern for the well-being of Vermonters was always drawn upon in his decision-making process, and his service in the General Assembly, as an attorney, and in the community at large epitomized the work of a genuine statesman, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly honors former Representative and Senator Robert T. Gannett on his 95th birthday and extends to him best wishes on this special occasion, *and be it further*

Was taken up and adopted on the part of the House.

Remarks Journalized

On motion of **Rep. Edwards of Brattleboro**, the following remarks by **Rep. Deen of Westminster** and **Koch of Barre Town** were ordered printed in the Journal:

Remarks of **Rep. Deen of Westminster**:

“Madam Speaker:

I had the pleasure of serving with Senator Gannett in the Senate and of course knew him when I shifted to the House. I agree with the comments of the member from Barre Town about Senator Gannett being a consummate gentleman and although I spent years in the Legislature serving with Robert, my comments are about his actions to serve Vermonters when I was not serving in the Legislature myself.

During the 70s and 80s I served as the Executive Director of South East Vermont Community Action Agency. In the early 1980s the federal Congress changed the federal law and basically disenfranchised the Community Action Agencies in Vermont. The way out of this seemingly impossible situation was to pass state legislation that recognized the Community Action Agencies as state agencies. This was not an easy task since the CAAs had always been federally funded, ran federal programs and served the most vulnerable people in VT so there was no large constituency for the CAAs.

Even though Senator Gannett and I are at different places on the political spectrum he responded to the plight of the CAAs and served as an advocate for passing the necessary state legislation. I would like to thank him for his service to the most vulnerable Vermonters and wish him a happy 95th birthday.”

Remarks of **Rep. Koch of Barre Town:**

“Madam Speaker:

I would like to add a few words concerning the resolution we just adopted honoring former Representative and former Senator Bob Gannett.

There are very few members of this House now who were privileged to serve with Bob Gannett, but those of us who had that privilege know him as the consummate Vermont gentleman. He had a comprehensive knowledge of the workings of Vermont government, and he was always willing to listen to those who had questions or suggestions regarding pending legislation—always in a non-partisan manner. In my view, he sets the ideal of how those of us who work in this building ought to go about serving the people of Vermont.

I thank the person who thought to sponsor this resolution. I am happy to have the opportunity to vote in favor of it and to wish Bob Gannett a very happy 95th birthday, and many more!”

Rules Suspended; Action on Bill Postponed

H. 775

On motion of **Rep. Ralston of Middlebury**, the rules were suspended and House bill, entitled

An act relating to allowed interest rates for installment loans

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending second reading of the bill, on motion of **Rep. Ralston of Middlebury**, action on the bill was postponed until Wednesday, March, 28, 2012.

Bill Read Second Time; Consideration Interrupted by Recess

H. 781

Rep. Heath of Westford spoke for the committee on Appropriations.

House bill entitled

An act relating to making appropriations for the support of government

Having appeared on the Calendar one day for notice, was taken up and read the second time and pending the question, Shall the bill be read the third time?

Recess

At one o'clock and ten minutes in the afternoon, the Speaker declared a recess until two o'clock and ten minutes in the afternoon.

At two o'clock and twenty minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 781

Consideration resumed on House bill entitled

An act relating to making appropriations for the support of government;

Pending third reading of the bill, **Rep. Heath of Westford** moved to amend the bill as follows:

First: In Sec. D.109(a), by striking out the figure "\$20,000,000" and inserting in lieu thereof the figure \$21,000,000.

Which was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Turner of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 101. Nays, 40.

Those who voted in the affirmative are:

Ancel of Calais	French of Randolph	Munger of South Burlington
Andrews of Rutland City	Gilbert of Fairfax	O'Brien of Richmond
Aswad of Burlington	Grad of Moretown	Olsen of Jamaica
Atkins of Winooski	Greshin of Warren	O'Sullivan of Burlington
Bartholomew of Hartland	Haas of Rochester	Partridge of Windham
Bissonnette of Winooski	Head of South Burlington	Peltz of Woodbury
Bohi of Hartford	Heath of Westford	Poirier of Barre City *
Botzow of Pownal	Hooper of Montpelier	Potter of Clarendon
Branagan of Georgia	Howrigan of Fairfield	Pugh of South Burlington
Brennan of Colchester	Jerman of Essex	Ralston of Middlebury
Burke of Brattleboro	Jewett of Ripton	Ram of Burlington
Buxton of Tunbridge	Johnson of South Hero	Reis of St. Johnsbury
Campion of Bennington	Kitzmiller of Montpelier	Russell of Rutland City
Cheney of Norwich	Klein of East Montpelier	Shand of Weathersfield
Christie of Hartford	Krebs of South Hero	Sharpe of Bristol
Clarkson of Woodstock	Krowinski of Burlington	South of St. Johnsbury
Condon of Colchester	Kupersmith of South Burlington	Spengler of Colchester
Conquest of Newbury	Lanpher of Vergennes	Stevens of Waterbury
Consejo of Sheldon	Lenes of Shelburne	Stevens of Shoreham
Copeland-Hanzas of Bradford	Leriche of Hardwick	Stuart of Brattleboro
Corcoran of Bennington	Lippert of Hinesburg	Sweaney of Windsor
Courcelle of Rutland City	Lorber of Burlington	Taylor of Barre City
Dakin of Chester	Macaig of Williston	Till of Jericho
Davis of Washington	Malcolm of Pawlet	Toll of Danville
Deen of Westminster	Manwaring of Wilmington	Townsend of Randolph
Devereux of Mount Holly	Marek of Newfane *	Waite-Simpson of Essex
Donovan of Burlington	Martin of Springfield	Webb of Shelburne
Edwards of Brattleboro	Martin of Wolcott	Wilson of Manchester
Ellis of Waterbury	Masland of Thetford	Wizowaty of Burlington
Emmons of Springfield	McCullough of Williston	Woodward of Johnson
Evans of Essex	Miller of Shaftsbury	Yantachka of Charlotte
Fisher of Lincoln	Mook of Bennington	Young of Glover
Frank of Underhill	Moran of Wardsboro	Zagar of Barnard
French of Shrewsbury	Mrowicki of Putney	

Those who voted in the negative are:

Acinapura of Brandon	Donaghy of Poultney	Komline of Dorset
Batchelor of Derby	Donahue of Northfield	Larocque of Barnet
Bouchard of Colchester	Eckhardt of Chittenden	Lawrence of Lyndon
Browning of Arlington *	Fagan of Rutland City	Lewis of Berlin
Burditt of West Rutland	Hebert of Vernon	Lewis of Derby
Canfield of Fair Haven	Helm of Fair Haven	Marcotte of Coventry
Clark of Vergennes	Hubert of Milton	McAllister of Highgate
Degree of St. Albans City	Johnson of Canaan	McFaun of Barre Town
Dickinson of St. Albans Town	Kilmartin of Newport City	McNeil of Rutland Town
	Koch of Barre Town	Myers of Essex

Pearce of Richford
 Peaslee of Guildhall
 Perley of Enosburgh
 Savage of Swanton

Scheuermann of Stowe
 Shaw of Pittsford
 Smith of New Haven
 Strong of Albany

Turner of Milton
 Winters of Williamstown
 Wright of Burlington

Those members absent with leave of the House and not voting are:

Crawford of Burke
 Higley of Lowell
 Howard of Cambridge

Keenan of St. Albans City
 Morrissey of Bennington
 Nuovo of Middlebury

Pearson of Burlington
 Trieber of Rockingham

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I cannot support a budget and the taxes to support it if that 1) shifts a greater burden onto the property tax and raises that rate and 2) fails to address or adjust or reduce in any way the system of tax expenditures that constitute a ‘shadow budget’ of over \$1 billion.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

I joined so many other members in voting to fix our roads and bridges, to replace our destroyed state hospital, to fill the Medicaid gap for vulnerable Vermonters, to increase education funding and reduce property taxes, to sustain our working landscapes and to support other critical programs for our state.

However, now that the time has come to actually appropriate the money to let all those good things happen, many of those who joined me in supporting them suddenly are unwilling to join me in paying for them. My constituents won’t let me have it both ways. They expect Vermont to pay its bills, just as they do.”

Rep. Poirier of Barre City explained his vote as follows:

“Mr. Speaker:

I am very pleased to have voted for this thoughtful and caring budget. The committee, regardless of how they voted, deserve a job well done.”

Bill Amended, Read Third Time and Passed

H. 440

House bill, entitled

An act relating to creating an agency and secretary of education and amending the membership and purpose of the state board of education

Was taken up and pending third reading of the bill, **Rep. Donovan of Burlington** moved to amend the bill as follows:

First: In Sec. 1, 3 V.S.A. § 2702, in subsection (a), by adding a second sentence to read: “The secretary shall serve at the pleasure of the governor.”

Second: In Sec. 1, 3 V.S.A. § 2702, in subsection (c), by striking out the word “public”

Third: In Sec. 2, 16 V.S.A. § 161, in the fourth sentence, by striking out the words: “public education” and inserting in lieu thereof the words: “ensuring quality education for Vermont students”

Fourth: In Sec. 2, 16 V.S.A. § 161, in subdivision (1), in the first sentence, by striking out the following: “, biennially”

Which was agreed to. Thereupon, the bill was read the third time and passed.

Third Reading; Bill Passed

H. 467

House bill, entitled

An act relating to limited liability for a landowner who permits a person to enter the owner’s land for recreational use

Was taken up, read the third time and passed.

Bill Read Second Time; Third Reading Ordered

H. 777

Rep. Copeland-Hanzas of Bradford spoke for the committee on Health Care.

House bill entitled

An act relating to licensed midwives and certified nurse midwives

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Kilmartin of Newport City** demanded the yeas and nays, which demand was sustained by the constitutional number.

Pending the call of the roll, **Rep. Degree of St. Albans City** moved to commit the bill to the committee on Judiciary.

Pending the question, Shall the House commit the bill to the committee on Judiciary? **Rep. Kilmartin of Newport City** demanded the yeas and nays, which demand was sustained by the constitutional number.

Thereupon, **Rep. Kilmartin of Newport City** asked and was granted leave of the House to withdraw his request for a roll call vote.

Thereupon, the bill was committed to the committee on Judiciary.

Message from the Senate No. 31

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 148. An act relating to expediting development of small and micro hydroelectric projects.

S. 201. An act relating to creating full public school choice for high school students .

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

Bill Read Second Time; Third Reading Ordered

H. 778

Rep. Koch of Barre Town spoke for the committee on Judiciary.

House bill entitled

An act relating to structured settlements

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Read Second Time; Third Reading Ordered

H. 779

Rep. Deen of Westminster spoke for the committee on Fish, Wildlife & Water Resources.

House bill entitled

An act relating to the water quality of state surface waters

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Amended; Third Reading Ordered

H. 613

Rep. Buxton of Tunbridge, for the committee on Education, to which had been referred House bill, entitled

An act relating to governance of the Community High School of Vermont

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 120 is amended to read:

§ 120. CORRECTIONS DEPARTMENT EDUCATION PROGRAM;
INDEPENDENT SCHOOL

(a) Authority. An education program is established within the department of corrections for the education of persons who have not completed secondary education and who are committed to the custody of the commissioner of corrections.

(b) Applicability of education provisions. The education program shall be approved by the state board of education as an independent school under 16 V.S.A. § 166, shall comply with the school quality standards provided by 16 V.S.A. § 165, and shall be coordinated with adult education, special education, and technical education.

(c) Program supervision. The commissioner of corrections shall appoint ~~an education supervisor~~ a director of corrections education, who shall be licensed as an administrator under 16 V.S.A. chapter 51, to ~~supervise the community high school~~ serve as the superintendent of the Community High School of Vermont and coordinate use of other education programs by persons under the supervision of the commissioner.

(d) Curriculum. The education program shall offer a minimum course of study, as defined in 16 V.S.A. § 906, and special education programs as required in 16 V.S.A. chapter 101 at each correctional facility and department service center, but is not required to offer a driver training course or a physical educational course.

(e) ~~Commissioner of education's designation of special education program. Notwithstanding any law to the contrary, the commissioner of education, in accordance with the provisions of 16 V.S.A. chapter 101, shall designate a program to provide for the special education of eligible persons who are under~~

~~the custody of the commissioner of corrections. Within the limits of funds made available for this specific purpose, the commissioner of education shall pay the costs of this program in excess of costs defined in subsection (g) of this section. [Repealed.]~~

(f) Reimbursement payments. The provision of 16 V.S.A. § 4012, relating to payment for state-placed students, shall not apply to the corrections education program.

(g) [Repealed.]

(h) Required participation. All persons under the custody of the commissioner of corrections who are under the age of 23 and have not received a high school diploma shall participate in the an education program unless exempted by the commissioner.

Sec. 2. 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~~ director of corrections education when serving as the superintendent of the Community High School of Vermont, the independent school established in section 120 of this title. The board shall have supervision over policy formation for the ~~independent school~~ Community High School of Vermont, except as otherwise provided, shall recommend school policy to the ~~commissioner of corrections, shall oversee local advisory boards of the school~~ director of corrections education, may create a structure for local advisory boards as it deems appropriate, 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 representatives from the membership of local advisory boards serving the school sites, not to include more than one member from any advisory board~~ selected to ensure geographic representation throughout the state.

(2) Three members-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 annually to the state board of education, the secretary of the agency of human services, 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 commissioner shall consult with the board prior to appointing the director of corrections education.

Sec. 3. IMPLEMENTATION

Notwithstanding the provisions of Sec. 2, 28 V.S.A. § 121(b)(1), the current members of the board shall serve until the expiration of their respective terms.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Mook of Bennington, for the committee on Government Operations, recommended that the bill ought to pass when amended as recommended by the committee on Education.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Education and Government Operations agreed to and third reading ordered.

Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Calendar, affecting the revenue of the state, under the rule, were referred to the Committee on Ways and Means:

H. 533

House bill, entitled

An act relating to insurance business transfers

H. 776

House bill, entitled

An act relating to encouraging flexible pathways leading to secondary school completion and career and college readiness

Adjournment

At five o'clock and fifty minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock in the forenoon.

Friday, March 23, 2012

At nine o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Lynn Bujnak, Conference minister, Vermont Conference of the United Church of Christ.

House Bill Introduced

H. 784

By Reps. Winters of Williamstown and Davis of Washington,

House bill, entitled

An act relating to approval of the adoption and codification of the charter of the town of Williamstown;

To the committee on Government Operations.

Committee Bill Introduced

H. 785

Rep. Emmons of Springfield, for the committee on Corrections and Institutions, introduced a bill, entitled

An act relating to capital construction and state bonding budget adjustment

Which was read the first time and referred to the committee on Appropriations pursuant to rule 35a.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 148

Senate bill, entitled

An act relating to expediting development of small and micro hydroelectric projects;

To the committee on Fish, Wildlife & Water Resources.

S. 201

Senate bill, entitled

An act relating to creating full public school choice for high school students;

To the committee on Education.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 613

House bill, entitled

An act relating to governance of the Community High School of Vermont

H. 778

House bill, entitled

An act relating to structured settlements

H. 779

House bill, entitled

An act relating to the water quality of state surface waters

Bill Read Third Time and Passed**H. 781**

House bill, entitled

An act relating to making appropriations for the support of government

Was taken up and pending third reading of the bill, **Rep. Johnson of Canaan** moved to amend the bill as follows:

Sec. E.107 REIMBURSEMENT FOR GRIEVANCE HEARING

EXPENDITURES

(a) A unified town or gore shall be entitled to claim reimbursement for expenditures incurred in conducting grievance hearings if:

(1) the hearing was held between July 1, 2009 and February 23, 2011;

(2) the expenditures related to hiring a person or persons to participate in the grievance hearing; and

(3) the expenditures were necessary to comply with 32 V.S.A. § 4408.

(b) Claims shall be filed with the department of taxes within 60 days of the effective date of this act, with receipts or other documentation as the department may require.

Thereupon, **Rep. Johnson of Canaan** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Rep. Clark of Vergennes** moved to amend the bill as follows:

By adding Secs. E.100.1, E.100.2, and E.100.3 to read as follows:

Sec. E.100.1 POSITION CREATION PROHIBITION

No new position in state government shall be created during any time when vacant state government positions exceed five percent or more of the total number of positions.

Sec. E.100.2 32 V.S.A. § 306a is added to read:

§ 306a. POSITION EXPECTATION REPORT

Annually, at least one week prior to submission of the budget report required by section 306 of this title, the secretary of administration shall submit a position expectation report to the general assembly. The report shall include the secretary's expectations of the positions necessary for the operation of state government in the five succeeding fiscal years, and shall include those positions necessary to operate any future planned initiatives.

Sec. E.100.3 POSITION RESTRUCTURING; RETIRING PERSONNEL

The secretary of administration shall review vacancies caused by retiring personnel in order to identify opportunities for position restructuring or elimination, and shall report the results of this review to the general assembly on or before February 1, 2013 so that it may be considered for purposes of preparing the FY 2014 budget.

Thereupon, **Rep. Clark of Vergennes** asked and was granted leave of the House to withdraw his amendment.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Toll of Danville** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 99. Nays, 41.

Those who voted in the affirmative are:

Ancel of Calais
Aswad of Burlington
Atkins of Winooski
Bartholomew of Hartland
Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Branagan of Georgia *

Brennan of Colchester
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Condon of Colchester

Conquest of Newbury
Consejo of Sheldon
Corcoran of Bennington
Courcelle of Rutland City
Dakin of Chester
Davis of Washington
Deen of Westminster
Devereux of Mount Holly

Donahue of Northfield	Kupersmith of South	Ralston of Middlebury
Donovan of Burlington	Burlington	Ram of Burlington
Edwards of Brattleboro	Lanpher of Vergennes	Reis of St. Johnsbury
Ellis of Waterbury	Lenes of Shelburne	Russell of Rutland City
Emmons of Springfield	Lerich of Hardwick	Shand of Weathersfield
Evans of Essex	Lippert of Hinesburg	Sharpe of Bristol *
Fisher of Lincoln	Lorber of Burlington	South of St. Johnsbury
Frank of Underhill	Macaig of Williston	Spengler of Colchester
French of Shrewsbury *	Malcolm of Pawlet	Stevens of Waterbury *
French of Randolph	Manwaring of Wilmington	Stevens of Shoreham
Gilbert of Fairfax	Marek of Newfane	Stuart of Brattleboro
Grad of Moretown	Martin of Wolcott	Sweaney of Windsor
Greshin of Warren	Masland of Thetford	Taylor of Barre City
Haas of Rochester	McCullough of Williston	Toll of Danville
Head of South Burlington	Miller of Shaftsbury	Townsend of Randolph
Heath of Westford	Mook of Bennington	Trieber of Rockingham
Hooper of Montpelier	Mrowicki of Putney *	Waite-Simpson of Essex
Howrigan of Fairfield	Nuovo of Middlebury	Webb of Shelburne
Jerman of Essex	O'Brien of Richmond *	Wilson of Manchester
Jewett of Ripton	Olsen of Jamaica	Wizowaty of Burlington
Johnson of South Hero	O'Sullivan of Burlington	Woodward of Johnson
Keenan of St. Albans City	Partridge of Windham	Yantachka of Charlotte *
Kitzmiller of Montpelier *	Peltz of Woodbury	Young of Glover
Klein of East Montpelier	Poirier of Barre City	Zagar of Barnard
Krebs of South Hero	Potter of Clarendon	
Krowinski of Burlington	Pugh of South Burlington	

Those who voted in the negative are:

Acinapura of Brandon	Helm of Fair Haven	McNeil of Rutland Town
Batchelor of Derby	Higley of Lowell	Myers of Essex
Bouchard of Colchester	Hubert of Milton *	Pearce of Richford
Browning of Arlington	Johnson of Canaan	Pearson of Burlington
Burditt of West Rutland	Kilmartin of Newport City *	Peaslee of Guildhall
Canfield of Fair Haven	Koch of Barre Town	Perley of Enosburgh
Clark of Vergennes	Komline of Dorset	Savage of Swanton
Degree of St. Albans City *	Larocque of Barnet	Scheuermann of Stowe *
Dickinson of St. Albans	Lawrence of Lyndon	Shaw of Pittsford
Town	Lewis of Berlin	Smith of New Haven
Donaghy of Poultney	Lewis of Derby	Strong of Albany
Eckhardt of Chittenden	Marcotte of Coventry	Turner of Milton
Fagan of Rutland City	McAllister of Highgate	Winters of Williamstown
Hebert of Vernon	McFaun of Barre Town	Wright of Burlington

Those members absent with leave of the House and not voting are:

Andrews of Rutland City	Howard of Cambridge	Munger of South Burlington
Copeland-Hanzas of	Martin of Springfield	Till of Jericho
Bradford	Moran of Wardsboro	
Crawford of Burke	Morrissey of Bennington	

Rep. Branagan of Georgia explained her vote as follows:

“Mr. Speaker:

This budget does not raise taxes. It provides facilities for our state’s mental patients. It pays for transportation costs including local town highway increases, much needed for the Franklin County communities I represent. In addition the budget funds obligations within the pay act and the retirement funds. And it gets rid of the waterfall which I’ve never liked and uses unanticipated revenue to reduce property tax. Budget votes are never easy and budgets are never perfect but this one provides needed services and pays the bills in the process. I’m voting ‘yes’.”

Rep. Burditt of West Rutland explained his vote as follows:

“Mr. Speaker:

When does the higher cost of living generated by government stop?! We have legislated higher fees. . . .Higher energy costs. . . . Higher taxes. . . .And bigger more expensive government. . . .

I received a call today from a constituent stating the above. He asked me what the heck are we doing up here in Montpelier. Dave’s concern is he feels like he is going to be forced onto state programs or be forced to move. He told me he cannot afford much more. He and his wife are not from an affluent family. They live a very meager life style and one of the few things they do is go out to dinner on their anniversary every year. With these increases he fears even this will be taken from them.

Every time we increase the cost of living we increase the number of people that cannot afford to live on what they earn. Every time we increase a fee, legislate higher energy costs, raise taxes or increase budgets we take away from hard working Vermonters ready to dip below the line of self-sufficiency.

I know too well what we are doing to our citizens. My family came to Grafton, Vermont in 1796. I am the youngest of 8 . . .have a son-in-law and a daughter who is a stay-at-home un-schooling mom and a son who is a veteran of Iraqi Freedom. All are doing very well and probably live above modest means. The issue is they are doing this in North Caroline, Colorado and Washington state. All have left in the last 10 years.

Our policies are forcing Vermonters to leave for greener pastures. The policies are splitting families and destroying business. My family has been in Vermont 216 years and I am the last man standing. Is it only a matter of time before one of your loved ones is forced to leave?”

Rep. Degree of St. Albans City explained his vote as follows:

“Mr. Speaker:

I find it disingenuous to imply that my ‘no’ vote means that I don’t support protecting children, seniors or rebuilding our infrastructure because I believe that all of these are endeavors that need our attention and I support them wholeheartedly. However, I do not believe that the greatest issue facing our state and my generation should be ignored or cast aside.

The rising cost of living in Vermont has driven too many young native Vermonters out of state and they’re not coming back.

This budget just adds to the heap, another six percent increase while Vermont families and businesses continue to struggle to do more with less.”

Rep. Dickinson of St. Albans Town explained her vote as follows:

“Mr. Speaker:

The increases in the budgets during the past three years are: 2010 – 2011 6.9%, 2011 – 2012 6.1%, and 2012 – 2013 5.8%. Vermonters will have to absorb not only the increase of this year’s budget, but also the loss of ARRA funds we have had during the past few years. The loss of this almost \$1 billion federal stimulus money will have to be made up by Vermont taxpayers.

This is at the same time we have seen continuing decline in our revenues during the past six months. We have a very fragile economy and we need to consider this in our budget decisions.”

Rep. French of Shrewsbury explained his vote as follows:

“Mr. Speaker:

A budget that is balanced, that doesn’t call for broad-based tax increases, that protects Vermonters and helps us rebuild our infrastructure and institutions. All this in the tailwinds of the Great Recession and tropical storm Irene. What an accomplishment! Kudos to our Appropriations committee.”

Rep. Hubert of Milton explained his vote as follows:

“Mr. Speaker:

I vote ‘no’ as 6% is just too much when most people are only getting 1% or 2%. We must hold the line on spending.”

Rep. Kilmartin of Newport City explained his vote as follows:

Big bill. No. This budget has the same appearance that *Thelma and Louise* had when they exchanged those fatal glances in the final scene and Thelma put the pedal to the metal to fly off the mesa. Unfortunately for Vermont, this

budget will put Vermont 90% of the way through the film's credits when it takes effect. Ouch!!"

Rep. Kitzmiller of Montpelier explained his vote as follows:

"Mr. Speaker:

I've been a member of this body for eleven years now, so this is the eleventh time I've voted on our annual budget. I am proud to cast my eleventh 'yes' vote! I have always supported our budget, regardless of which political party held the advantage in creating it.

My 'yes' votes have not always meant I agreed with the priorities in a budget, but they do mean that I deeply appreciate the incredibly difficult choices that must be made to create it. We never have enough money to do all we would like to do."

Rep. Mrowicki of Putney explained his vote as follows:

"Mr. Speaker:

Budgets are value statements. This budget is a statement of a responsible response to extraordinary circumstances and an affirmation of the role of good government in good times and bad.

My vote affirms the budget process – the long, arduous deliberations of the Appropriations Committee and the collective wisdom of this body and those who hired us to be here – the Vermont voters."

Rep. O'Brien of Richmond explained her vote as follows:

"Mr. Speaker:

I am proud to vote 'yes' on this, which during this very challenging time in Vermont's history still reserves over \$16 million for the future."

Rep. Scheuermann of Stowe explained her vote as follows:

"Mr. Speaker:

Make no mistake. Broad-based taxes are being raised. This budget depends on the permanent reduction of almost \$70 million in the Education Fund. That equals about 3 cents on the property tax rate for our Vermont families and businesses."

Rep. Sharpe of Bristol explained his vote as follows:

"Mr. Speaker:

This budget bill provides for a fundamental change in how we deal with unexpected tax revenues. Gone is the waterfall; in its place is a system to

return to a full transfer of funds to the Education Fund, a set-aside for loss of federal funds, and a real 'Rainy Day Fund'."

Rep. Stevens of Waterbury explained his vote as follows:

"Mr. Speaker:

All too often our actions in this building only give the illusion we are doing something for the people of Vermont. The flooding in August forced us to solve difficult situations this year, rather than kicking them down the road. From repairing broken roads and bridges to restructuring a broken mental health care system, this budget makes hard decisions without leaving damaged communities in the lurch. Is it perfect? No, but none of us are.

I appreciate the hard work of the Committee to make these decisions while closing another large budget gap, as do my constituents. I'm proud to support this bill."

Rep. Turner of Milton explained his vote as follows:

"Mr. Speaker:

This budget increases overall state spending by 6.4% to a total that exceeds \$5 billion dollars for the first time in history. This budget makes choices in policy and spending. I support the choices to help our communities and Vermonters recover from the damages caused by 'IRENE'. However, there are many sections that I cannot. We have raised taxes and increased in the budget a number of fees over the years to support increased spending that I feel is growing at an unsustainable rate. Thank you."

Rep. Yantachka of Charlotte explained his vote as follows:

"Mr. Speaker:

Vermont state government has joined with all Vermonters across the state in an exemplary manner to respond to the effects of tropical storm Irene and is still in the process of facilitating that recovery. I voted 'yes' because this budget provides the necessary funding to continue that recovery while providing for the other necessary functions Vermonters expect state government to be responsible for."

Rules Suspended; Bill Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

H. 781

House bill, entitled

An act relating to making appropriations for the support of government.

Adjournment

At ten o'clock and forty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, March 26, 2012, at two o'clock in the afternoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 304

House concurrent resolution congratulating the 2012 Essex High School Division I and Northern Vermont Athletic Conference championship cheerleading team;

H.C.R. 305

House concurrent resolution congratulating the Essex High School Hornets 2012 Division I championship girls' ice hockey team;

H.C.R. 306

House concurrent resolution congratulating the Williamstown High School Blue Devils 2012 Division III championship boys' basketball team;

H.C.R. 307

House concurrent resolution congratulating Sophia Hadeka of Fair Haven on being named Miss Vermont's Outstanding Teen 2011;

H.C.R. 308

House concurrent resolution congratulating the Essex High School Hornets on winning the 2012 state gymnastics championship;

H.C.R. 309

House concurrent resolution in memory of Alan D. Overton;

H.C.R. 310

House concurrent resolution designating March 21 as Vermont Energy Independence Day;

H.C.R. 311

House concurrent resolution congratulating the U-32 Raiders 2012 Lake Division championship boys' ice hockey team;

H.C.R. 312

House concurrent resolution honoring Alice Hafner of Danville for her outstanding public service on behalf of the Vermont criminal justice system;

H.C.R. 313

House concurrent resolution congratulating Middlebury Union Middle School students Ronan Howlett and Meigan Clark on their success at the 2012 Vermont Spelling Bee;

H.C.R. 314

House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' basketball team;

H.C.R. 315

House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' Nordic skiing team;

H.C.R. 316

House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I girls' alpine state championship team;

H.C.R. 317

House concurrent resolution honoring the federal TRIO programs in Vermont;

H.C.R. 318

House concurrent resolution congratulating Vermont Railway on its selection as the 2012 Shortline Railroad of the Year;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Monday, March 26, 2012

At two o'clock in the afternoon the Speaker called the House to order.

Adjournment

At two o'clock and fifteen minutes in the afternoon, noting the absence of a quorum, the Speaker adjourned the House until tomorrow, Tuesday, March 27, 2012 at 10:00 in the forenoon.

Tuesday, March 27, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Laura Cadmus of the United Church of Cabot, VT.

Pledge of Allegiance

Page Elysia Manriquez of Barre led the House in the Pledge of Allegiance.

Message from the Senate No. 32

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 93. An act relating to labeling maple products.

S. 114. An act relating to the size of accessory dwelling units.

S. 211. An act relating to securing propane tanks in natural disasters.

S. 215. An act relating to evaluating net costs of government purchasing.

S. 252. An act relating to the repeal or revision of reporting requirements.

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

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

H. 630. An act relating to reforming Vermont's mental health system.

And has accepted and adopted the same on its part.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 304. House concurrent resolution congratulating the 2012 Essex High School Division I and Northern Vermont Athletic Conference championship cheerleading team.

H.C.R. 305. House concurrent resolution congratulating the Essex High School Hornets 2012 Division I championship girls' ice hockey team.

H.C.R. 306. House concurrent resolution congratulating the Williamstown

High School Blue Devils 2012 Division III championship boys' basketball team.

H.C.R. 307. House concurrent resolution congratulating Sophia Hadeka of Fair Haven on being named Miss Vermont's Outstanding Teen 2011.

H.C.R. 308. House concurrent resolution congratulating the Essex High School Hornets on winning the 2012 state gymnastics championship.

H.C.R. 309. House concurrent resolution in memory of Alan D. Overton.

H.C.R. 310. House concurrent resolution designating March 21 as Vermont Energy Independence Day.

H.C.R. 311. House concurrent resolution congratulating the U-32 Raiders 2012 Lake Division championship boys' ice hockey team.

H.C.R. 312. House concurrent resolution honoring Alice Hafner of Danville for her outstanding public service on behalf of the Vermont criminal justice system.

H.C.R. 313. House concurrent resolution congratulating Middlebury Union Middle School students Ronan Howlett and Meigan Clark on their success at the 2012 Vermont Spelling Bee.

H.C.R. 314. House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' basketball team.

H.C.R. 315. House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' Nordic skiing team.

H.C.R. 316. House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I girls' alpine state championship team.

H.C.R. 317. House concurrent resolution honoring the federal TRIO programs in Vermont.

H.C.R. 318. House concurrent resolution congratulating Vermont Railway on its selection as the 2012 Shortline Railroad of the Year.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 93

Senate bill, entitled

An act relating to labeling maple products;
To the committee on Agriculture.

S. 114

Senate bill, entitled
An act relating to the size of accessory dwelling units;
To the committee on General, Housing and Military Affairs.

S. 211

Senate bill, entitled
An act relating to securing propane tanks in natural disasters;
To the committee on Fish, Wildlife & Water Resources.

S. 215

Senate bill, entitled
An act relating to evaluating net costs of government purchasing;
To the committee on Government Operations.

S. 252

Senate bill, entitled
An act relating to the repeal or revision of reporting requirements;
To the committee on Government Operations.

Joint Resolution Adopted

J.R.H. 33

Joint resolution authorizing the state of Vermont to accept a reprint of an engraving of Thaddeus Stevens for the state house art collection

Offered by: Representative Toll of Danville

Whereas, Thaddeus Stevens was born in Danville in 1792 and attended the University of Vermont and Dartmouth College, from which he graduated in 1814, and

Whereas, a lawyer by profession, he was sworn into the Pennsylvania Bar and in 1816 started a law practice in the town of Gettysburg, which would become intimately associated with the Civil War and the abolishment of slavery, a matter of passionate concern for Thaddeus Stevens, and

Whereas, he served in the Pennsylvania legislature and later in the U.S. House of Representatives from 1849 to 1853 and returned for a second tenure of enormous historical significance from 1859 until his death in 1868, and

Whereas, as a Radical Republican, Thaddeus Stevens was one of the first members of Congress to propose, during the Civil War, that slaves be emancipated, and

Whereas, after the Civil War, he advocated strict federal supervision of the former confederacy states to assure that the newly freed slaves were assured their rights, and

Whereas, legislation he sponsored would eventually become the Fourteenth Amendment to the U.S. Constitution enshrining the rights of the newly freed slaves, and

Whereas, the Vermont state house has lacked a portrait of this distinguished native son, statesman, and unyielding abolitionist, and

Whereas, at the urging of Civil War historian Howard Coffin, the Danville Historical Society and the Danville Chamber of Commerce endeavored to locate and acquire a suitable portrait of Thaddeus Stevens for permanent display in our state's capitol, and

Whereas, the search led to a 2002 reprint of a middle 19th century engraving of Thaddeus Stevens, which will officially be presented to the state of Vermont for inclusion in the state house art collection on Wednesday, March 28, 2012 at a ceremony in the Cedar Creek Room, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes the state of Vermont to accept a reprint of an engraving of Thaddeus Stevens for inclusion in the state house art collection, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the office of the state curator, the Danville Historical Society, and the Danville Chamber of Commerce.

Was taken up and adopted on the part of the House.

Message from the Senate No. 33

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 202. An act relating to regulation of flood hazard areas, river corridors, and stream alteration.

S. 214. An act relating to customer rights regarding smart meters.

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

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 53. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Bill Read Second Time; Consideration Interrupted by Recess

H. 782

Rep. Ancel of Calais spoke for the committee on Ways and Means.

House bill entitled

An act relating to miscellaneous tax changes for 2012

Having appeared on the Calendar one day for notice, was taken up and read the second time. Pending the question, Shall the bill be read the third time?

Recess

At ten o'clock and forty-five minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At twelve o'clock and forty minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 782

Consideration resumed on House bill entitled

An act relating to miscellaneous tax changes for 2012;

Pending the question, Shall the bill be read the third time? **Rep. Eckhardt of Chittenden** moved to amend the bill as follows:

By adding a Sec. 37a to read as follows:

Sec. 37a. 24 V.S.A. § 138(g) is added to read:

(g) If the legislative body of a municipality by a majority vote recommends, or by petition of ten percent of the voters of a municipality, the voters of a municipality may, at an annual or special meeting warned for that

purpose, by a majority vote of those present and voting, rescind any or all of the local option taxes assessed under subsection (b) of this section.

Which was agreed to and third reading was ordered.

Bill Amended; Third Reading Ordered

H. 785

Rep. Emmons of Springfield spoke for the committee on Corrections and Institutions.

Rep. Winters of Williamstown, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to capital construction and state bonding budget adjustment

Reported in favor of its passage when amended as follows:

First: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (c)(4), BGS engineering costs, by striking the second sentence in its entirety and by striking the period in the lead-in and inserting in lieu thereof a colon

Second: In Sec. 8, amending Sec. 12 of No. 40 of the Acts of 2011, in subdivision (b)(1)(E), ANR water pollution control administrative costs, by striking the second sentence in its entirety and by striking the period in the lead-in and inserting in lieu thereof a colon

Third: In Sec. 8, amending Sec. 12 of No. 40 of the Acts of 2011, in subdivision (b)(2)(B), ANR engineering and project management, by striking the second sentence in its entirety and by striking the period in the lead-in and inserting in lieu thereof a colon

Fourth: In Sec. 9, amending No. 40 of the Acts of 2011, in subdivision (f), public safety study, in the second sentence, by striking "Shaftsbury."

Fifth: By inserting a new Sec. 41 to read

Sec. 41. ENGINEERING COSTS

The joint fiscal office shall study during the 2012 interim how best to allocate engineering costs between the capital and general funds.

and by renumbering the remaining sections to be numerically correct

and that when so amended the bill ought to pass

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Appropriations agreed to.

Pending third reading of the bill, **Rep. Emmons of Springfield** moved to amend the bill as follows:

First: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, by striking subdivision (c)(9)(B) in its entirety and replacing in lieu thereof the following:

(B) For planning, design, site acquisition, leasing, and architectural and engineering costs for schematic design development or renovation related to the relocation or replacement of services previously provided at Vermont State Hospital, including the establishment of a 14-bed unit and a six-bed unit, respectively, at a hospital in southeastern Vermont and a hospital in southwestern Vermont; a new 25-bed hospital owned and operated by the state in central Vermont and proximate to an existing hospital; a secure seven-bed residential facility owned and operated by the state; or the provision of acute inpatient services at temporary locations: 5,000,000

Second: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (g)(1)(C), off-session meetings of the house committee on corrections and institutions and the senate committee on institutions, following the first sentence, by adding a new second sentence to read: “The committees shall notify the commissioner of buildings and general services prior to holding a meeting pursuant to this subdivision.”

Third: In Sec. 21, amending 29 V.S.A. § 165, in subdivision (c)(2), by striking the term “six-year” and inserting in lieu thereof the term “three-year”

Fourth: In Sec. 36, public approval, out-of-state issuers, by striking the first word of the first sentence and inserting in lieu thereof the following: “Notwithstanding any provision to the contrary in Title 9, the”

Which was agreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

H. 535

Rep. Lippert of Hinesburg, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to racial disparities in the Vermont criminal justice system

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) In 2010, the United States Census counted a total Vermont population of 625,741, of which 95.3 percent were white, 1.0 percent African-American, 1.5 percent Hispanic/Latino, 1.3 percent Asian, 0.4 percent American Indian, 0.3 percent other and 1.7 percent reporting that they were of two or more undisclosed races.

(2) The Vermont Department of Corrections (DOC) reported in its *Facts and Figures: FY2010* that by November 2010, African-Americans made up 10.3 percent of Vermont inmates—more than ten times the rate that African-Americans appear in the general population of Vermont. In the same report, DOC reported that on June 1, 2001, 5.1 percent of Vermont inmates were identified as African-American. DOC data show that the percentage of African-Americans incarcerated in Vermont has been steadily increasing since 1993, far surpassing the growth rate for any other racial group.

(3) A 2003 study by the Vermont Center for Justice Research (“the Center”), *Exploring the Dynamics of Race and Crime Using Vermont NIBRS Data* by Bill Clements, using arrest data from 1993–2000, found that African-Americans experienced a significantly higher arrest rate than whites, Asians, or Native Americans. In that study, regression analysis suggested that as a result of race, African-American males were 1.5 times and African-American females were 2.6 times more likely to be arrested than their white counterparts.

(4) A 2007 Center study, *Felony Sentencing in Vermont: 2001–2006* by Robin Adler, found that nonwhite felony defendants were more likely to be sentenced to incarceration than white defendants even after controlling for all other variables.

(5) Discretionary decision-making by a variety of criminal justice professionals may result in racial disparities in criminal justice systems. In every step of the criminal justice process, persons exercise discretion, including:

- (A) the initial investigation by law enforcement;
- (B) the decision to lodge or release on citation;
- (C) the decision by prosecutors to file a particular charge;
- (D) the prosecutor’s bail recommendation;
- (E) the judge’s bail decision;
- (F) the plea negotiation process;

(G) the defendant's decision whether to exercise the right to a trial by jury;

(H) the prosecutor's sentencing recommendation;

(I) the judge's sentencing decision as to a jail or probationary sentence;

(J) the department of corrections' programming decision, supervision practices, and its recommendation to release on parole; and

(K) the parole board's decision whether to grant parole.

(6) Vermont has become, and will continue to become, more racially diverse.

(7) Tolerance and concern for all people regardless of race, color, or national origin has long been part of the legacy of Vermont, the first state to prohibit slavery by constitutional protection and a leader in prohibiting discrimination in public accommodation, employment, banking and insurance, education, and housing.

(8) It is critically important that officials from all three branches of government have access to the data and the analysis of that data to be able to investigate and assess the extent of racial and ethnic disparities in Vermont's criminal justice system. This assessment is necessary to identify practices of criminal justice professionals that have a disparate impact on racial and ethnic minorities, so that remedies can be fashioned to address such practices promptly and effectively.

(9) The supreme court of Vermont, pursuant to its constitutional responsibilities, has adopted a Code of Conduct and Employee Discipline governing all employees of the judiciary, providing that behavior based on bias will not be condoned or tolerated.

(10) The office of the state court administrator, through its comprehensive judicial education program for judicial officers and its educational programs for court managers and court staff, regularly conducts and supports programs focused on diversity issues, implicit bias, cultural awareness, and the requirements of the relevant codes of conduct.

(11) The Uncommon Alliance of Chittenden County, which included members of the communities of color as well as representatives of the police departments of Burlington, South Burlington, Winooski, the University of Vermont, and Vermont civil rights organizations, are commended for their work, in particular, opening dialogue and initiating the voluntary collection

and analysis of roadside-stop race data for the first time by law enforcement agencies in Vermont.

(12) The Vermont State Police are further commended for extending the voluntary collection and analysis of roadside-stop race data statewide.

Sec. 2. STUDY; APPROPRIATION

(a) Research regarding sentencing practices routinely concludes that two variables drive sentencing decisions—the seriousness of the offense and the defendant’s risk to reoffend. The Vermont Center for Justice Research (“the Center”) shall examine the effect of these and other variables, including the race of the defendant on sentencing decisions in Vermont for a five-year period. The Center shall use data from the Federal Bureau of Investigation Interstate Identification Index, department of motor vehicles, Vermont criminal information center, department of corrections, and the Vermont courts to explain if the disparities are based on legal or nonlegal factors. The Center’s research shall focus on the following:

(1) How do the sentences of people of particular census categories, in the aggregate and by national incident-based reporting system race data fields (NIBRS), which currently include white, black, Asian, Native American or Alaskan Native, and Hispanic, compare to the sentences of white defendants with respect to sentence type, length of sentence, and level of restriction?

(2) How does the actual time spent by people of particular census categories, in the aggregate and by NIBRS race data fields under department of corrections’ supervision (and the degree of restriction) compare to the time spent by (and the degree of restriction of) white defendants?

(3) If disparate sentencing patterns or disparate service patterns exist for people of particular census categories, in the aggregate and by NIBRS race data fields, what variables included in the study design explain the disparity?

(b) On or before December 15, 2012, results of the study shall be reported to the house and senate committees on judiciary, the court administrator, and to each organization or entity represented on the governor’s criminal justice cabinet.

(c) The general assembly appropriates \$20,000.00 to the Vermont Center for Justice Research to support this data collection, analysis, and report.

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

§ 2366. LAW ENFORCEMENT AGENCIES; BIAS-FREE

POLICING POLICY; RACE DATA COLLECTION

(a) No later than January 1, 2013, every state, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall adopt a bias-free policing policy. The policy shall contain the essential elements of such a policy as determined by the Law Enforcement Advisory Board after its review of the current Vermont State Police Policy and the most current model policy issued by the office of the attorney general.

(b) The policy shall encourage ongoing bias-free law enforcement training for state, local, county, and municipal law enforcement agencies.

(c) State, local, county, and municipal law enforcement agencies that employ one or more certified law enforcement officers are encouraged to work with the Vermont association of chiefs of police to extend the collection of roadside-stop race data uniformly throughout state law enforcement agencies, with the goal of obtaining uniform roadside-stop race data for analysis.

Sec. 4. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS

* * *

(e) The council shall include, as part of the criteria for all minimum training standards under this section, anti-bias training approved by the Vermont criminal justice training council.

Sec. 5. 24 V.S.A. § 1939 is amended as follows:

§ 1939. LAW ENFORCEMENT ADVISORY BOARD

* * *

(e) The board shall examine how individuals make complaints to law enforcement and suggest, on or before December 15, 2012, to the senate and house committees on judiciary what procedures should exist to file a complaint with law enforcement and the human rights commission.

Sec. 6. CRIMINAL JUSTICE AGENCIES; BIAS-FREE CRIMINAL
JUSTICE POLICY

The general assembly encourages all criminal justice entities through their professional rules of conduct to ensure that all actions taken are done in a manner that is free of bias.

Rep. Keenan of St. Albans City, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Judiciary.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Judiciary and Appropriations agreed to and third reading ordered.

Report of Committee of Conference Adopted

H. 630

The Speaker placed before the House the following Committee of Conference 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 Committee bill, entitled

An act relating to reforming Vermont's mental health system

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

Sec. 1. PURPOSE

(a) It is the intent of the general assembly to strengthen Vermont's existing mental health care system by offering a continuum of community and peer services, as well as a range of acute inpatient beds throughout the state. This system of care shall be designed to provide flexible and recovery-oriented treatment opportunities and to ensure that the mental health needs of Vermonters are served.

(b) It is also the intent of the general assembly that the agency of human services fully integrate all mental health services with all substance abuse, public health, and health care reform initiatives, consistent with the goals of parity.

Sec. 1a. 18 V.S.A. chapter 174 is added to read:

CHAPTER 174. MENTAL HEALTH SYSTEM OF CARE

§ 7251. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

The general assembly adopts the following principles as a framework for reforming the mental health care system in Vermont:

(1) The state of Vermont shall meet the needs of individuals with mental health conditions, including the needs of individuals in the custody of the commissioner of corrections, and the state's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the departments of mental health and of corrections, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with mental health conditions receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics and geography to increase the likelihood of treatment as close to the patient's home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The state's mental health system shall ensure that the legal rights of individuals with mental health conditions are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

(9) Individuals with a mental health condition who are in the custody of the commissioner of mental health and who receive treatment in an acute inpatient hospital, intensive residential recovery facility, or a secure residential facility shall be afforded at least the same rights and protections as those individuals cared for at the former Vermont State Hospital.

§ 7252. DEFINITIONS

As used in this chapter:

(1) "Adult outpatient services" means flexible services responsive to individuals' preferences, needs, and values that are necessary to stabilize, restore, or improve the level of social functioning and well-being of individuals with mental health conditions, including individual and group treatment, medication management, psychosocial rehabilitation, and case management services.

(2) “Designated agency” means a designated community mental health and developmental disability agency as described in subsection 8907(a) of this title.

(3) “Designated area” means the counties, cities, or towns identified by the department of mental health that are served by a designated agency.

(4) “Enhanced programming” means targeted, structured, and specific intensive mental health treatment and psychosocial rehabilitation services for individuals in individualized or group settings.

(5) “Intensive residential recovery facility” means a licensed program under contract with the department of mental health that provides a safe, therapeutic, recovery-oriented residential environment to care for individuals with one or more mental health conditions who need intensive clinical interventions to facilitate recovery in anticipation of returning to the community. This facility shall be for individuals not in need of acute inpatient care and for whom the facility is the least restrictive and most integrated setting.

(6) “Mobile support team” means professional and peer support providers who are able to respond to an individual where he or she is located during a crisis situation.

(7) “Noncategorical case management” means service planning and support activities provided for adults by a qualified mental health provider, regardless of program eligibility criteria or insurance limitations.

(8) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provide high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(9) “Participating hospital” means a hospital under contract with the department of mental health to participate in the no refusal system.

(10) “Peer” means an individual who has a personal experience of living with a mental health condition or psychiatric disability.

(11) “Peer services” means support services provided by trained peers or peer-managed organizations focused on helping individuals with mental health and other co-occurring conditions to support recovery.

(12) “Psychosocial rehabilitation” means a range of social, educational, occupational, behavioral, and cognitive interventions for increasing the role

performance and enhancing the recovery of individuals with serious mental illness, including services that foster long-term recovery and self-sufficiency.

(13) “Recovery-oriented” means a system or services that emphasize the process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(14) “Serious bodily injury” means the same as in section 1912 of this title.

(15) “Warm line” means a nonemergency telephone response line operated by trained peers for the purpose of active listening and assistance with problem-solving for persons in need of such support.

§ 7253. CLINICAL RESOURCE MANAGEMENT AND OVERSIGHT

The commissioner of mental health, in consultation with health care providers as defined in section 9432 of this title, including designated hospitals, designated agencies, individuals with mental health conditions, and other stakeholders, shall design and implement a clinical resource management system that ensures the highest quality of care and facilitates long-term, sustained recovery for individuals in the custody of the commissioner.

(1) For the purpose of coordinating the movement of individuals across the continuum of care to the most appropriate services, the clinical resource management system shall:

(A) ensure that all individuals in the care and custody of the commissioner receive the highest quality and least restrictive care necessary;

(B) develop a process for receiving direct patient input on treatment opportunities and the location of services;

(C) use state-employed clinical resource management coordinators to work collaboratively with community partners, including designated agencies, hospitals, individuals with mental health conditions, and peer groups, to ensure access to services for individuals in need. Clinical resource management coordinators or their designees shall be available 24 hours a day, seven days a week to assist emergency service clinicians in the field to access necessary services;

(D) use an electronic, web-based bed board to track in real time the availability of bed resources across the continuum of care;

(E) use specific level-of-care descriptions, including admission, continuing stay, and discharge criteria, and a mechanism for ongoing assessment of service needs at all levels of care;

(F) specify protocols for medical clearance, bed location, transportation, information sharing, census management, and discharge or transition planning;

(G) coordinate transportation resources so that individuals may access the least restrictive mode of transport consistent with safety needs;

(H) ensure that to the extent patients' protected health information pertaining to any identifiable person that is otherwise confidential by state or federal law is used within the clinical resource management system, the health information exchange privacy standards and protocols as described in subsection 9351(e) of this title shall be followed;

(I) review the options for the use of ambulance transport, with security as needed, as the least restrictive mode of transport consistent with safety needs required pursuant to section 7511 of this title; and

(J) ensure that individuals under the custody of the commissioner being served in designated hospitals, intensive residential recovery facilities, and the secure residential recovery facility shall have access to a mental health patient representative. The patient representative shall advocate for patients and shall also foster communication between patients and health care providers. The department of mental health shall contract with an independent, peer-run organization to staff the full-time equivalent of a patient representative.

(2) For the purpose of maintaining the integrity and effectiveness of the clinical resource management system, the department of mental health shall:

(A) require a designated team of clinical staff to review the treatment received and clinical progress made by individuals within the commissioner's custody;

(B) coordinate care across the mental and physical health care systems as well as ensure coordination within the agency of human services, particularly the department of corrections, the department of health's alcohol and drug abuse programs, and the department of disabilities, aging, and independent living;

(C) coordinate service delivery with Vermont's Blueprint for Health and health care reform initiatives, including the health information exchange as defined in section 9352 of this title and the health benefit exchange as defined in 33 V.S.A. § 1803;

(D) use quality indicators, manageable data requirements, and quality improvement processes to monitor, evaluate, and continually improve the

outcomes for individuals and the performance of the clinical resource management system;

(E) actively engage stakeholders and providers in oversight processes; and

(F) provide mechanisms for dispute resolution.

§ 7254. INTEGRATION OF THE TREATMENT FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND PHYSICAL HEALTH

(a) The director of health care reform and the commissioners of mental health, of health, and of Vermont health access and the Green Mountain Care board or designees shall ensure that the redesign of the mental health delivery system established in this act is an integral component of the health care reform efforts established in 3 V.S.A. § 2222a. Specifically, the director, commissioners, and board shall confer on planning efforts necessary to ensure that the following initiatives are coordinated and advanced:

(1) any health information technology projects;

(2) the integration of health insurance benefits in the Vermont health benefit exchange to the extent feasible under federal law;

(3) the integration of coverage under Green Mountain Care;

(4) the Blueprint for Health;

(5) the reformation of payment systems for health services to the extent allowable under federal law or under federal waivers; and

(6) other initiatives as necessary.

(b) The department of banking, insurance, securities, and health care administration shall ensure that private payers are educated about their obligation to reimburse providers for less restrictive and less expensive alternatives to hospitalization.

§ 7255. SYSTEM OF CARE

The commissioner of mental health shall coordinate a geographically diverse system and continuum of mental health care throughout the state that shall include at least the following:

(1) comprehensive and coordinated community services, including prevention, to serve children, families, and adults at all stages of mental illness;

(2) peer services, which may include:

(A) a warm line;

- (B) peer-provided transportation services;
- (C) peer-supported crisis services; and
- (D) peer-supported hospital diversion services;
- (3) alternative treatment options for individuals seeking to avoid or reduce reliance on medications;
- (4) recovery-oriented housing programs;
- (5) intensive residential recovery facilities;
- (6) appropriate and adequate psychiatric inpatient capacity for voluntary patients;
- (7) appropriate and adequate psychiatric inpatient capacity for involuntary inpatient treatment services, including patients receiving treatment through court order from a civil or criminal court; and
- (8) a secure residential recovery facility.

§ 7256. REPORTING REQUIREMENTS

Notwithstanding 2 V.S.A. § 20(d), the department of mental health shall report annually on or before January 15 to the senate committee on health and welfare and the house committee on human services regarding the extent to which individuals with mental health conditions receive care in the most integrated and least restrictive setting available. The report shall address:

- (1) Utilization of services across the continuum of mental health services;
- (2) Adequacy of the capacity at each level of care across the continuum of mental health services;
- (3) Individual experience of care and satisfaction;
- (4) Individual recovery in terms of clinical, social, and legal outcomes; and
- (5) Performance of the state's mental health system of care as compared to nationally recognized standards of excellence.

§ 7257. REPORTABLE ADVERSE EVENTS

An acute inpatient hospital, an intensive residential recovery facility, a designated agency, or a secure residential facility shall report to the department of mental health instances of death or serious bodily injury to individuals with a mental health condition in the custody of the commissioner.

§ 7258. REVIEW OF ADVERSE COMMUNITY EVENTS

The department of mental health shall establish a system that ensures the comprehensive review of a death or serious bodily injury occurring outside an acute inpatient hospital when the individual causing or victimized by the death or serious bodily injury is in the custody of the commissioner or had been in the custody of the commissioner within six months of the event. The department shall review each event for the purpose of determining whether the death or serious bodily injury was the result of inappropriate or inadequate services within the mental health system and, if so, how the failure shall be remedied.

Sec. 2. DELETED

Sec. 3. DELETED

Sec. 4. DELETED

Sec. 5. DELETED

Sec. 6. PEER SERVICES

The commissioner of mental health is authorized to contract for new peer services and to expand existing programs managed by peers that provide support to individuals living with or recovering from mental illness. Peer services shall be aimed at helping individuals with mental illness achieve recovery through improved physical and mental health, increased social and community connections and supports, and the avoidance of mental health crises and psychiatric hospitalizations. The commissioner of mental health shall:

(1) Establish a warm line or warm lines accessible statewide which shall be staffed at all times to ensure that individuals with a mental health condition have access to peer support;

(2) Establish new peer services focused on reducing the need for inpatient services;

(3) Improve the quality, infrastructure, and workforce development of peer services; and

(4) Develop peer-run transportation services.

Sec. 7. COMMUNITY SERVICES

To improve existing community services and to create new opportunities for community treatment, the commissioner of mental health is authorized to:

(1) Improve emergency responses, mobile support teams, noncategorical case management, adult outpatient services, and alternative residential opportunities at designated agencies.

(A) Each designated agency shall provide the scope and category of services most responsive to the needs of designated areas, as determined by the commissioner of mental health.

(B) Designated agencies shall work collaboratively with law enforcement officials, corrections, local hospitals, the department of disabilities, aging, and independent living, and peers to integrate services and expand treatment opportunities for individuals living with or recovering from mental illness.

(2) Contract for at least four additional short-term crisis beds in designated agencies for the purpose of preventing or diverting individuals from hospitalization when clinically appropriate and for the purpose of increasing regional access to crisis beds.

(3) Contract for a voluntary five-bed residence for individuals seeking to avoid or reduce reliance on medication or having an initial episode of psychosis. The residence shall be peer supported and noncoercive, and treatment shall be focused on a nontraditional, interpersonal, and psychosocial approach, with minimal use of psychotropic medications to facilitate recovery in individuals seeking an alternative to traditional hospitalization.

(4) Provide housing subsidies to individuals living with or recovering from mental illness for the purpose of fostering stable and appropriate living conditions. If necessary to achieve successful housing outcomes, housing subsidies may be provided without an agreement to accept certain services as a condition of assistance. The department of mental health shall ensure that housing subsidies are monitored and managed in coordination with other relevant community services and supports.

Sec. 8. INTENSIVE RESIDENTIAL RECOVERY FACILITIES

(a) To support the development of intensive residential recovery facilities, the commissioner of mental health is authorized to contract for:

(1) Fifteen beds located in northwestern Vermont;

(2) Eight beds located in southeastern Vermont; and

(3) Eight beds located in either central or southwestern Vermont or both.

(b) Notwithstanding 18 V.S.A. § 9435(b), all facilities contracted for under subsection (a) of this section shall be subject to the certificate of approval

process, which shall take into consideration the recommendations of a panel of stakeholders appointed by the commissioner to review each proposal and conduct a public hearing.

Sec. 9. INPATIENT HOSPITAL BEDS

(a) To replace the services provided at the Vermont State Hospital, the department of mental health shall oversee the delivery of emergency examination and involuntary inpatient treatment services at four acute inpatient hospitals throughout the state:

(1) The department of mental health shall enter into contracts that meet the requirements of subdivision (2) of this subsection with a hospital in southeastern Vermont and a hospital in southwestern Vermont for the establishment of a 14-bed unit and a six-bed unit, respectively, contingent upon receipt by the hospitals of certificates of need pursuant to 18 V.S.A. chapter 221, subchapter 5. Certificate of need applications for the 14-bed unit and the six-bed unit, whether prepared jointly by a hospital and the department or solely by a hospital, shall be reviewed by the commissioner of mental health prior to a certificate of need approval to ensure the architectural and program proposals meet industry standards for quality of care and emotional and physical safety standards and otherwise protect patients' rights.

(2) Initial contract terms for the 14-bed unit and the six-bed unit shall require participation in the no refusal system for four years and until the facility has recouped its initial investment. Contracts referenced in subdivision (1) of this subsection shall apply to participating hospitals, notwithstanding their status as designated hospitals, and shall contain the following requirements:

(A) Funding shall be based on the ability to treat patients with high acuity levels;

(B) Units shall be managed as part of a statewide no refusal system;

(C) Reimbursement by the state shall cover reasonable actual costs for enhanced programming and staffing in accordance with Sec. 33b of this act;

(D) Units shall be managed to ensure access to peer supports;

(E) Participating hospitals shall maintain a stakeholder advisory group with nonexclusionary membership to ensure high quality and appropriate levels of care;

(F) The department shall be solely responsible for responding to requests for records concerning the implementation of this contract between

the department and the hospital. The hospital and its employees shall cooperate and provide reasonable assistance to the department in producing records that are within the custody of the hospital that are responsive to records requests and that are not confidential by law; and

(G) The state shall retain the option to renew the contract upon expiration of the initial four-year term.

(b)(1)(A) The department of buildings and general services, with broad involvement from the department of mental health and stakeholders, shall design a 25-bed hospital owned and operated by the state in central Vermont and proximate to an existing hospital. Applying the most expeditious methodology possible, the department of buildings and general services shall supervise the construction of the hospital with an expressed goal of completing the project in 24 months. The operations of the hospital shall be under the jurisdiction of the commissioner of mental health.

(B)(i) The general assembly finds that the Centers for Medicare and Medicaid Services (CMS) advised the state of Vermont on March 14, 2012 that:

(I) any newly constructed hospital owned and operated by the state that exceeds 16 beds will be eligible to receive federal matching funds for services rendered at the hospital under the state's current Global Commitment waiver, which is set to expire on December 31, 2013.

(II) although CMS was unable to provide a definitive answer as to whether a new hospital owned and operated by the state with 25 beds would be eligible for federal matching funds after December 31, 2013, the state will be able to cease use of nine beds at that time and amend the hospital's license from 25 beds to 16 beds if the Global Commitment waiver is not renewed or extended and a new waiver is not granted under similar terms and conditions.

(ii) In the event the hospital owned and operated by the state loses or is no longer eligible for federal matching funds after December 31, 2013, the commissioner of mental health shall cease use of nine beds within the time frame set by CMS and reduce the hospital's license from 25 to 16 beds. At that time, the commissioner of mental health shall begin planning for an orderly transition to a 16-bed hospital that shall proceed in a manner that protects the health, safety, and integrity of individuals treated at the state owned and operated hospital. The commissioner's transition plan shall ensure the nine-bed deficit in acute inpatient beds be addressed by expanding acute inpatient capacity elsewhere in the state if necessary and that the nine decommissioned beds in the state owned and operated hospital be repurposed in a manner that does not jeopardize federal matching funds for the remaining

16 beds. If the loss or denial of federal matching funds occurs while the general assembly is in session, the commissioner shall notify and seek approval of the transition plan from the senate committees on health and welfare and on institutions and the house committees on human services and on corrections and institutions before proceeding with the transition plan. If the loss or denial of federal matching funds occurs while the general assembly is not in session, the commissioner shall notify and seek approval of the transition plan from a special committee composed of members of the joint fiscal committee and the chairs and vice chairs of the senate committees on health and welfare and on institutions and the house committees on human services and on corrections and institutions before proceeding with the transition plan. The special committee shall be entitled to per diem and expenses as provided in 32 V.S.A. § 1010.

(2) To foster coordination between the judiciary and mental health systems, the hospital owned and operated by the state shall contain:

(A) adequate capacity to accept individuals receiving a court order of hospitalization pursuant to 18 V.S.A. chapter 181; and

(B) a private room used and outfitted for the purpose of judicial proceedings.

(3) The commissioner of buildings and general services may purchase, lease for a period of up to 99 years plus any contracted for renewal options, or enter into a lease-purchase agreement for property in central Vermont for the purpose described in this subsection.

(4) The commissioner of buildings and general services shall inform the chairs and vice chairs of the senate committee on institutions and house committee on corrections and institutions prior to entering into an agreement pursuant to subdivision (3) of this subsection, upon substantial completion of a design pursuant to this section, prior to the commencement of construction, and when any other substantial step is taken in furtherance of this section.

(c)(1) The commissioner is authorized to contract for seven to 12 involuntary acute inpatient beds at Fletcher Allen Health Care until the hospital owned and operated by the state described in subsection (b) of this section is operational, to cover the increased cost of care; and

(2)(A) If a viable setting is identified by the commissioner and licensed by the department of health, the commissioner is authorized to provide acute inpatient services at a temporary hospital and shall discontinue services at that hospital when the hospital owned and operated by the state described in

subsection (b) of this section is operational. The department shall pursue Medicare and Medicaid certification for any such temporary hospital.

(B) If the temporary hospital identified under subdivision (2)(A) of this subsection (c) is located in Morrisville, acute inpatient services shall be discontinued at the facility when the hospital owned and operated by the state described in subsection (b) of this section is operational, but no later than September 1, 2015. At that time, the temporary hospital shall revert to prior permitted uses. The temporary hospital shall be initially licensed for eight acute inpatient beds. Before an expansion of the number of beds at the temporary Morrisville hospital may occur, the department shall confer with the host community to seek permission for such expansion.

(d) To the extent amounts of potential funding from various sources are not clear upon passage of this act, the legislative intent for funding the capital costs of this section to the extent practicable is first through insurance funds that may be available for these purposes; second through the Federal Emergency Management Agency (FEMA) funds that may be available for these purposes and any required state match; third, in the case of the 14-bed unit and the six-bed unit, through a rate payment with clearly defined terms of services; and last with state capital or general funds. It is also the intent of the general assembly that, notwithstanding 32 V.S.A. §§ 134 and 135, any capital funds expended for projects described in this act that are reimbursed at a later date by insurance or FEMA shall be reallocated to fund capital projects in a future act relating to capital construction and state bonding.

Sec. 10. SECURE RESIDENTIAL RECOVERY PROGRAM

(a) The commissioner of mental health is authorized to establish and oversee a secure seven-bed residential facility owned and operated by the state for individuals no longer requiring acute inpatient care, but who remain in need of treatment within a secure setting for an extended period of time. The program shall be the least restrictive and most integrated setting for each of the individual residents.

(b) The opening of the facility described in subsection (a) of this section is contingent upon the passage of necessary statutory amendments authorizing judicial orders for commitment to such a facility, which shall parallel or be included in 18 V.S.A. § 7620 (related to applications for continuation of involuntary treatment), and shall include the same level of statutory protections for the legal rights of the residents as provided for individuals at inpatient facilities.

* * * Vermont Employees Retirement System * * *

Sec. 11. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this subchapter shall have the following meanings:

* * *

(28) “Successor in interest” means the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 12. 3 V.S.A. § 459(d)(2)A) is amended to read:

(2)(A) Upon early retirement, a group F member, except facility employees of the department of corrections and department of corrections employees who provide direct security and treatment services to offenders under supervision in the community and Woodside facility employees, shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by one-half of one percent for each month the member is under age 62 at the time of early retirement. Group F members who have 20 years of service as facility employees of the department of corrections, as department of corrections employees who provide direct security and treatment services to offenders under supervision in the community or as Woodside facility employees or as Vermont ~~state hospital~~ State Hospital employees, or as employees of its successor in interest, who provide direct patient care shall receive an early retirement allowance which shall be equal to the normal retirement allowance at age 55 without reduction; provided the 20 years of service occurred in one or more of the following capacities as an employee of the department of corrections, Woodside facility~~],~~ or the Vermont ~~state hospital~~ State Hospital, or its successor in interest: facility employee, community service center employee, or court and reparative service unit employee.

* * * Executive: Human Services * * *

Sec. 13. 3 V.S.A. § 3089 is amended to read:

§ 3089. DEPARTMENT OF MENTAL HEALTH

The department of mental health is created within the agency of human services as the successor to and the continuation of the division of mental health services of the department of health. The department of mental health

shall be responsible for the operation of the Vermont ~~state hospital~~ State Hospital, or its successor in interest as defined in subdivision 455(28) of this title.

* * * Crimes and Criminal Procedure: Escape * * *

Sec. 14. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

* * *

(b) A person who, while in lawful custody:

* * *

(4) escapes or attempts to escape from the Vermont ~~state hospital~~ State Hospital, or its successor in interest or a participating hospital, when confined by court order pursuant to chapter 157 of Title 13 or chapter 199 of Title 18 this title, or when transferred there pursuant to section 28 V.S.A. § 703 of Title 28 and while still serving a sentence, shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.

* * *

(d) As used in this section:

(1) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(2) “Participating hospital” means a hospital under contract with the department of mental health to participate in the no refusal system.

(3) “Successor in interest” shall mean the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

* * * Crimes and Criminal Procedure: Insanity as a Defense * * *

Sec. 15. 13 V.S.A. § 4815 is amended to read:

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

(b) The order for examination may provide for an examination at any jail or correctional center, or at the state hospital, or at its successor in interest, or at such other place as the court shall determine, after hearing a recommendation by the commissioner of mental health.

* * *

(g)(1) Inpatient examination at the ~~state hospital~~ Vermont State Hospital, or its successor in interest, or a designated hospital. The court shall not order an inpatient examination unless the designated mental health professional determines that the defendant is a person in need of treatment as defined in 18 V.S.A. § 7101(17).

* * *

(3) An order for inpatient examination shall provide for placement of the defendant in the custody and care of the commissioner of mental health.

(A) If a Vermont ~~state hospital~~ State Hospital psychiatrist, or a psychiatrist of its successor in interest, or a designated hospital psychiatrist determines that the defendant is not in need of inpatient hospitalization prior to admission, the commissioner shall release the defendant pursuant to the terms governing the defendant's release from the commissioner's custody as ordered by the court. The commissioner of mental health shall ensure that all individuals who are determined not to be in need of inpatient hospitalization receive appropriate referrals for outpatient mental health services.

(B) If a Vermont ~~state hospital~~ State Hospital psychiatrist, or a psychiatrist of its successor in interest, or designated hospital psychiatrist determines that the defendant is in need of inpatient hospitalization:

(i) The commissioner shall obtain an appropriate inpatient placement for the defendant at the Vermont ~~state hospital~~ State Hospital, or its successor in interest, or a designated hospital and, based on the defendant's clinical needs, may transfer the defendant between hospitals at any time while the order is in effect. A transfer to a designated hospital outside the no refusal system is subject to acceptance of the patient for admission by that hospital.

(ii) The defendant shall be returned to court for further appearance on the following business day if the defendant is no longer in need of inpatient hospitalization, unless the terms established by the court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

* * *

(i) As used in this section:

(1) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(2) "Successor in interest" shall mean the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 15a. 13 V.S.A. § 4822(c) is amended to read:

(c) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section the commissioner of ~~developmental and mental health services~~ shall give notice thereof to the committing court and state's attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the commissioner of ~~developmental and mental health services~~, a hearing should be held prior to the discharge, the hearing shall be held in the ~~criminal~~ family division of the superior court, ~~Waterbury circuit~~ to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the commissioner, the state's attorney of the county where the prosecution originated, the committed person and the person's attorney. Prior to the hearing, the state's attorney may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

Sec. 16. DELETED

* * * General Provisions (Pertaining to Mental Health) * * *

Sec. 17. 18 V.S.A. § 7101 is amended to read:

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

* * *

(26) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(27) "Participating hospital" means a hospital under contract with the department of mental health to participate in the no refusal system.

(28) "Successor in interest" means the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 18. 18 V.S.A. § 7108 is amended to read:

§ 7108. CANTEENS

The ~~superintendents~~ chief executive officer of the Vermont State Hospital ~~and the Training School, or its successor in interest,~~ may conduct a canteen or commissary, which shall be accessible to patients, ~~students,~~ employees, and visitors of the ~~state hospital and training school~~ Vermont State Hospital, or its successor in interest, at designated hours and shall be operated by employees of the hospital ~~and the school.~~ A revolving fund for this purpose is authorized. The salary of an employee of the hospital ~~or training school~~ shall be charged against the canteen fund. Proceeds from sales may be used for operation of the canteen and the benefit of the patients, ~~students~~ and employees of the hospital ~~or training school~~ under the direction of the ~~superintendents~~ chief executive officer and subject to the approval of the commissioner. All balances of such funds remaining at the end of any fiscal year shall remain in such fund for use during the succeeding fiscal year. An annual report of the status of the funds shall be submitted to the commissioner.

Sec. 19. 18 V.S.A. § 7110 is amended to read:

§ 7110. CERTIFICATION OF MENTAL ILLNESS

A certification of mental illness by a licensed physician required by section 7504 of this title shall be made by a board eligible psychiatrist, a board certified psychiatrist or a resident in psychiatry, under penalty of perjury. In areas of the state where board eligible psychiatrists, board certified psychiatrists or residents in psychiatry are not available to complete admission certifications to the Vermont ~~state hospital~~ State Hospital, or its successor in interest, the commissioner may designate other licensed physicians as appropriate to complete certification for purposes of section 7504 of this title.

* * * The Department of Mental Health * * *

Sec. 20. 18 V.S.A. § 7205 is amended to read:

§ 7205. SUPERVISION OF INSTITUTIONS

(a) The department of mental health shall operate the Vermont State Hospital, or its successor in interest, and shall be responsible for patients receiving involuntary treatment ~~at a hospital designated by the department of mental health.~~

(b) The commissioner of the department of mental health, in consultation with the secretary, shall appoint a chief executive officer of the Vermont State Hospital, or its successor in interest, to oversee the operations of the hospital. The chief executive officer position shall be an exempt position.

Sec. 21. DELETED

Sec. 22. DELETED

* * * The Commissioner of Mental Health * * *

Sec. 23. 18 V.S.A. § 7401 is amended to read:

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the commissioner shall be charged with its administration. The commissioner may:

* * *

(5) supervise the care and treatment of ~~patients at the Retreat in the same manner and with the same authority that he supervises patients at the Vermont State Hospital~~ individuals within his or her custody;

* * *

(16) contract with accredited educational or health care institutions for psychiatric services at the Vermont State Hospital, or its successor in interest;

* * *

* * * Admission Procedures * * *

Sec. 24. 18 V.S.A. § 7511 is amended to read:

§ 7511. TRANSPORTATION

(a) The commissioner shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any inpatient setting, including escorts within a designated hospital or the Vermont ~~state hospital~~ State Hospital, or its successor in interest, or otherwise being transported under the jurisdiction of the commissioner in any manner which:

(1) prevents physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the patient.

(b) The commissioner shall have the authority to designate the professionals or law enforcement officers who may authorize the method of transport of patients under the commissioner's care and custody.

(c) When a professional or law enforcement officer designated pursuant to subsection (b) of this section decides an individual is in need of secure transport with mechanical restraints, the reasons for such determination shall be documented in writing.

* * *

* * * Care and Treatment * * *

Sec. 25. 18 V.S.A. § 7703 is amended to read:

§ 7703. TREATMENT

(a) Outpatient or partial hospitalization shall be preferred to inpatient treatment. Emergency involuntary treatment shall be undertaken only when clearly necessary. Involuntary treatment shall be utilized only if voluntary treatment is not possible.

(b) The department shall establish minimum standards for adequate treatment as provided in this section, including requirements that, when possible, psychiatric unit staff be used as the primary source to implement emergency involuntary procedures such as seclusion and restraint.

* * * Transfer of Patients * * *

Sec. 26. 18 V.S.A. § 7901 is amended to read:

§ 7901. INTRASTATE TRANSFERS

The commissioner may authorize the transfer of patients between the Vermont ~~state hospital~~ State Hospital, or its successor in interest, and designated hospitals if the commissioner determines that it would be consistent with the medical needs of the patient to do so. Whenever a patient is transferred, written notice shall be given to the patient's ~~attorney~~, legal guardian or agent, if any, ~~spouse, parent, or parents, or, if none be known, to any other interested party in that order, and any other person with the consent of the patient.~~ In all such transfers, due consideration shall be given to the relationship of the patient to his or her family, legal guardian, or friends, so as to maintain relationships and encourage visits beneficial to the patient. Due consideration shall also be given to the separation of functions and to the divergent purposes of the Vermont ~~state hospital~~ State Hospital, or its successor in interest, and designated hospitals. No patient may be transferred to a correctional institution without the order of a court of competent

jurisdiction. No patient may be transferred to a designated hospital outside the no refusal system unless the head of the hospital or his or her designee first accepts the patient.

* * * Support and Expense * * *

Sec. 27. 18 V.S.A. § 8101(b) is amended to read:

(b) The commissioner shall promulgate, pursuant to 3 V.S.A. chapter 25 of Title 3, regulations which set forth in detail the levels of income, resources, expenses, and family size at which persons are deemed able to pay given amounts for the care and treatment of a patient, and the circumstances, if any, under which the rates of payment so established may be waived or modified. A copy of the payment schedule so promulgated shall be made available in the admissions office ~~and in the office of each supervisor at the state hospital~~ Vermont State Hospital, or its successor in interest.

Sec. 28. 18 V.S.A. § 8105 is amended to read:

§ 8105. COMPUTATION OF CHARGE FOR CARE AND TREATMENT

The charge for the care and treatment of a patient at the Vermont ~~state hospital~~ State Hospital, or its successor in interest, shall be established at least annually by the commissioner. The charge shall reflect the current cost of the care and treatment, including depreciation and overhead, for the Vermont ~~state hospital~~ State Hospital, or its successor in interest. Depreciation shall include but not be limited to costs for the use of the plant and permanent improvements, and overhead shall include but not be limited to costs incurred by other departments and agencies for the operation of the hospital. Accounting principles and practices generally accepted for hospitals shall be followed by the commissioner in establishing the charges.

Sec. 29. 18 V.S.A. § 8010 is amended to read:

§ 8010. VOLUNTARY PATIENTS; DISCHARGE; DETENTION

~~(a) If a voluntary patient gives notice in writing to the head of the hospital of a desire to leave the hospital, he or she shall promptly be released unless he or she agreed in writing at the time of his admission that his or her release could be delayed.~~

~~(b) In that event and if the head of the hospital determines that the patient is a patient in need of further treatment, the head of the hospital may detain the patient for a period not to exceed four days from receipt of the notice to leave. Before expiration of the four day period the head of the hospital shall either release the patient or apply to the family division of the superior court in the unit in which the hospital is located for the involuntary admission of the~~

~~patient. The patient shall remain in the hospital pending the court's determination of the case.~~

~~(c) If the patient is under 18 years of age, the notice to leave may be given by the patient or his or her attorney or the person who applied for admission, provided the minor consents thereto. [Repealed.]~~

* * * Municipal and County Government * * *

Sec. 29a. 24 V.S.A. § 296 is amended to read:

§ 296. TRANSPORTATION OF PRISONERS ~~AND MENTAL PATIENTS~~

All commitments to a state correctional facility ~~or state mental institution~~ or to any other place named by the commissioner of corrections, ~~commissioner of mental health~~ or committing court, shall be made by any sheriff, deputy sheriff, state police officer, police officer, or constable in the state, or the commissioner of corrections or his or her authorized agent.

* * * Professions and Occupations: Nursing * * *

Sec. 30. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXCEPTIONS

This chapter does not prohibit:

* * *

~~(6) The work and duties of psychiatric technicians and other care attendants employed in the Vermont state hospital at Waterbury. The agency of human services shall consult with the board regarding standards for the education of the technicians and care attendants.~~

(7) The work and duties of attendants in attendant care services programs.

~~(8)~~(7) The practice of any other occupation or profession licensed under the laws of this state.

~~(9)~~(8) The providing of care for the sick in accordance with the tenets of any church or religious denomination by its adherents if the individual does not hold himself or herself out to be a registered nurse, licensed practical nurse, or licensed nursing assistant and does not engage in the practice of nursing as defined in this chapter.

* * * Public Institutions and Corrections: Juveniles * * *

Sec. 31. 28 V.S.A. § 1105 is amended to read:

§ 1105. TRANSFER OF JUVENILES TO STATE HOSPITAL

~~The transfer of any child committed to the custody of the commissioner from a facility of or supported by the department to the state hospital shall be conducted pursuant to the same procedures established for the transfer of adult inmates by sections 703-706 of this title. [Repealed.]~~

* * * Regulation of Long-Term Care Facilities * * *

Sec. 32. 33 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

For the purposes of this chapter:

* * *

(11) “Therapeutic community residence” means a place, however named, excluding ~~a hospital~~ hospitals as defined by statute ~~or the Vermont state hospital~~ which provides, for profit or otherwise, short-term individualized treatment to three or more residents with major life adjustment problems, such as alcoholism, drug abuse, mental illness, or delinquency.

* * *

Sec. 33. REPORTS

(a) On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committees on human services and on judiciary on issues and protections relating to decentralizing high intensity inpatient mental health care. The commissioner of mental health shall:

(1) Recommend whether any statutory changes are needed to preserve the rights afforded to patients in the Vermont State Hospital. In so doing, the commissioner shall consider 18 V.S.A. §§ 7705 and 7707, the Vermont Hospital Patient Bill of Rights as provided in 18 V.S.A. § 1852, the settlement order in Doe, et al. v. Miller, et al., docket number S-142-82-Wnc dated May 1984, and other state and federal regulatory and accreditation requirements related to patient rights.

(2) Work with designated hospitals and stakeholders to develop a process to ensure public involvement with policy development relevant to individuals in the care and custody of the commissioner.

(3) Develop consistent definitions and measurement specifications for measures relating to seclusion and restraint and other key indicators, in collaboration with the designated hospitals. The commissioner shall prioritize the use of measures developed by national organizations such as the Joint Commission and the Centers for Medicare and Medicaid Services.

(4) Report on the efficacy of the department of mental health's housing subsidies program on the status of stable housing.

(b) On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committee on human services regarding the department's efforts to date to plan for implementation, quality improvement, and innovation of Vermont's mental health system and how the department recommends that it proceed in its efforts to improve the system. The recommendation shall be based on an assessment of outcome and financial measures focused on at least the following criteria for individuals with a mental health condition:

(1) the development of sufficient capacity for inpatient and community psychiatric services and peer supports across the continuum of care;

(2) the support of individuals in accessing the services nearest to their home;

(3) the reduction in emergency department usage and law enforcement intervention;

(4) the reduction in hospital admissions and length of inpatient stays, including any impact on readmissions;

(5) the implementation of quality assessment tools for evaluation of services at all levels, including those needed to measure the effectiveness of the care management system;

(6) the department's use of current financial data to conduct a fiscal analysis of the capital and annual operating costs associated with the plan as enacted; and

(7) individuals' satisfaction with provided services.

(c) Prior to submitting the reports required by subsections (a) and (b) of this section, the department of mental health shall solicit comments from the department's patient representative described in 18 V.S.A. § 7253, Vermont Legal Aid, and Disability Rights Vermont, and shall append any comments received to the respective report.

(d) On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committee on human services with a plan for streamlining overlapping state and federal reporting requirements for providers in the mental health system, including recommendations for any statutory changes needed to do so.

(e) A special committee consisting of the members of the joint fiscal committee and the chairs and vice chairs of the senate committee on health and welfare and the house committee on human services, in consultation with the commissioner of mental health shall contract with an independent consultant who has expertise in the field of mental health and psychiatric hospital services to evaluate the structure, services, and financial implications of Vermont's proposed mental health system. The joint fiscal office shall administer the contract for the special committee. The department of mental health shall transfer to the joint fiscal committee one-half the cost of this contract and the joint fiscal committee is authorized to transfer one-half the cost of this contract from the legislative budget to the joint fiscal committee. The independent consultant shall submit a report to the general assembly by December 1, 2012 and shall specifically address:

(1) Whether Vermont's proposed mental health system appropriately serves the needs of individuals with mental health conditions throughout the state and, if any unmet needs are identified, how they may be addressed;

(2) The data and evaluation mechanisms necessary to manage and improve the quality of care and outcomes for individuals in Vermont with a mental health condition.

Sec. 33a. RULEMAKING

On or before September 1, 2012, the commissioner of mental health shall initiate a rulemaking process that establishes standards that meet or exceed and are consistent with standards set by the Centers for Medicare and Medicaid Services and the Joint Commission for the use and reporting of the emergency involuntary procedures of seclusion or restraint on individuals within the custody of the commissioner and that require the personnel performing emergency involuntary procedures to receive training and certification on the use of these procedures. Standards established by rule shall be consistent with the recommendations made pursuant to Sec. 33(a)(1) and (3) of this act.

Sec. 33b. COST-BASED REIMBURSEMENT FOR ACUTE HOSPITAL SERVICES

(a) The department of mental health shall ensure that hospitals are paid reasonable actual costs for providing necessary care to persons who otherwise

would have been cared for at the Vermont State Hospital as defined by the department. The department shall contract with a third party with experience in psychiatric hospital care and expenses to conduct a comprehensive fiscal review to determine if the department's cost reimbursement methodology reflects reasonable actual costs.

(b) The department of mental health shall report to the joint fiscal committee regarding the fiscal review described in subsection (a) of this section on or before September 1, 2012.

Sec. 34. TRANSFER OF APPROPRIATIONS

To continue the training program established in Sec. 13 of No. 80 of the Acts of the 2003 Adj. Sess. (2004) (amending Sec. 57 of No. 66 of the Acts of 2003), for assisting selected law enforcement officers during the performance of their duties in their interactions with persons exhibiting mental health conditions, \$20,000.00 of the general funds appropriated to the department of mental health for fiscal year 2012 shall be transferred to the office of the attorney general.

(1) The office of the attorney general, in consultation with the Vermont coalition for disability rights and other organizations, shall implement this training program.

(2) By January 15 of each year and until funds are fully expended, the attorney general shall submit to the secretary of administration and the house and senate committees on appropriations a report summarizing how the funds have been used and how the trainings have progressed.

(3) Unexpended funds shall be carried forward and used for the purpose of this section in future years.

Sec. 34a. Sec. 33 of No. 43 of the Acts of 2009 (amending Sec. 124d(e) of No. 65 of the Acts of 2007) is amended to read:

(e) For purposes of this section, the council shall cease to exist when the development of the alternatives to the Vermont state hospital is completed, but no later than ~~July~~ September 1, 2012 ~~2015~~.

* * * Fiscal Year 2012 Appropriations * * *

Sec. 35. Sec. B.301 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec. 14 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.301 Secretary's office - global commitment

Grants	~~1,080,785,264~~ <u>1,107,604,567</u>

Total	~~1,080,785,264~~	1,107,604,567
Source of funds		
General fund	~~139,267,121~~	135,947,833
Special funds	~~18,630,961~~	19,052,361
Tobacco fund	36,978,473	36,978,473
State health care resources fund	~~221,579,040~~	234,205,524
Catamount fund	~~23,948,700~~	25,226,979
Federal funds	~~639,692,834~~	655,505,262
Interdepartmental transfers	<u>688,135</u>	<u>688,135</u>
Total	~~1,080,785,264~~	1,107,604,567

Sec. 36. Sec. B.314 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec. 24 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.314 Mental health - mental health

Personal services	~~5,486,339~~	5,482,633
Operating expenses	~~1,117,984~~	1,040,984
Grants	<u>~~124,369,250~~</u>	<u>139,483,645</u>
Total	~~130,973,573~~	146,007,262
Source of funds		
General fund	~~811,295~~	961,295
Special funds	6,836	6,836
Federal funds	~~6,555,971~~	6,552,154
Global Commitment fund	~~123,579,471~~	138,466,977
Interdepartmental transfers	<u>20,000</u>	<u>20,000</u>
Total	~~130,973,573~~	146,007,262

Sec. 37. Sec. B.315 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec. 25 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.315 Mental health – Vermont state hospital

Personal services	~~20,479,188~~	20,228,969
Operating expenses	~~2,056,312~~	1,394,734
Grants	<u>82,335</u>	<u>82,335</u>
Total	~~22,617,835~~	21,706,038
Source of funds		
General fund	~~17,016,067~~	5,963,977
~~Special funds~~	~~835,486~~	0
Federal funds	~~213,564~~	93,117
Global Commitment fund	~~4,252,718~~	15,648,944
~~Interdepartmental transfers~~	<u>~~300,000~~</u>	<u>0</u>

Total	22,617,835	21,706,038

Sec. 37a. REDUCTION IN FORCE OF VERMONT STATE HOSPITAL EMPLOYEES

(a) Permanent status classified employees who were officially subjected to a reduction in force from their positions with the Vermont State Hospital on or after February 6, 2012, whose reemployment rights have not otherwise terminated and who have not been reemployed with the state during the two-year reduction in force reemployment rights period, shall be granted a continuation of their reduction in force reemployment rights, in accordance with the provisions of the applicable collective bargaining agreement, but solely to vacant classified bargaining unit positions at any new state-owned and -operated psychiatric hospital which management intends to fill. All other contractual reduction in force reemployment terms and conditions shall apply.

(b) Permanent status classified employees employed by the Vermont State Hospital as of February 6, 2012 who are employed by the state shall, in accordance with the provisions of the applicable collective bargaining agreement, be eligible to receive one mandatory offer of reemployment to any new state-owned and -operated psychiatric hospital, solely to the job classification that they last occupied at the Vermont State Hospital, provided management intends to fill positions within that job classification. An employee who accepts such mandatory offer of reemployment shall be appointed in accordance with the provisions of the applicable collective bargaining agreement. If an employee who accepts a mandatory offer of reemployment fails the associated working test period, he or she shall be separated from employment and granted full reduction in force reemployment rights in accordance with the applicable collective bargaining agreement.

(c)(1) Participating hospitals and designated agencies developing acute inpatient, secure residential, and intensive residential recovery services, as described in Secs. 8–10 of this act, shall provide the department of human resources with a description of the minimum qualifications for those open positions related to the care of individuals with mental health conditions. Participating hospitals and designated agencies shall be encouraged to hire former state employees who meet minimum requirements or have equivalent experience. The department shall use the most effective method to notify former employees of the Vermont State Hospital of these positions.

(2) The general assembly encourages the administration through its contracting process with participating hospitals and designated agencies to provide former employees of the Vermont State Hospital with the opportunity to apply for available positions.

(3) The provisions of this subsection shall not affect any existing collective bargaining agreement.

(d) Subsections (a) and (b) of this section are repealed one year after the opening of any new state-owned and -operated psychiatric hospital.

Sec. 37aa. VERMONT STATE HOSPITAL EMPLOYEE RETIREMENT INCENTIVE

(a) An individual who was employed by the department of mental health as of March 1, 2012, who was employed at the Vermont State Hospital on August 28, 2011, who participates in either the defined benefit or defined contribution plan, and who does not initiate the purchase of any additional service credit after March 1, 2012 shall be eligible for the retirement incentive outlined in subsection (b) of this section if the individual has:

(1) 30 years of creditable retirement service as of April 13, 2012;

(2) five years of creditable retirement service as of April 13, 2012 and is 62 years of age or older on April 13, 2012; or

(3) 20 years of creditable retirement service as of April 13, 2012 as a facility employee who provides or who has provided direct security and treatment services as provided in 3 V.S.A. § 459(2)(A) and is 55 years of age or older on April 12, 2012.

(b) If the employee applies for retirement on or before April 13, 2012 for a retirement effective on or before May 1, 2012, the employee shall be entitled to payment by the state of at least 80 percent of the cost of the premium for health insurance coverage offered by the state of Vermont to retirees, provided that the employee continues to meet the eligibility requirements for at least seven years following retirement unless the employee elects the premium reduction option under 3 V.S.A. § 479(e) and:

(1) \$750.00 per complete year of service if the employee has five years of creditable service or more and fewer than 15 years of creditable service; or

(2) \$1,000.00 per complete year of service if the employee has 15 years of creditable service or more.

(c) The cash incentive set forth in subsection (b) of this section shall not exceed \$15,000.00 per employee. The employee shall receive the cash portion of the incentive in two equal payments in fiscal years 2013 and 2014. The first payment shall be made within 90 days of the retirement date. The second payment shall be made within 90 days of the one-year anniversary of the retirement date. The retirement incentive shall not be paid from the Vermont state retirement fund, as outlined in 3 V.S.A. § 473.

(d) No employee who receives the incentive set forth in subsection (b) of this section may return to permanent or limited classified service with the state for at least two full fiscal years from the date of his or her retirement unless the secretary of administration expressly approves otherwise. The joint fiscal committee shall be notified of any employee who received the incentive set forth in subsection (b) of this section and returned to state employment within two years.

(e) An employee who receives the incentive set forth in subsection (b) of this section is not entitled to receive any mandatory reemployment rights to a successor state facility and will not be eligible for any rights under Sec. 37a of this act.

(f) The retirement incentive set forth in subsection (b) of this section shall be treated as a severance payment under 21 V.S.A. § 1344(a)(5)(C) and shall be a disqualifying remuneration.

Sec. 37b. LEGISLATIVE INTENT

(a) It is the intent of the general assembly that the department of mental health contract with the Brattleboro Retreat for a 14-bed unit and with Rutland Regional Medical Center for a six-bed facility pursuant to Sec. 9(a) of this act.

(b) It is the understanding of the general assembly that the proposed temporary hospital in Sec. 9(c)(2) of this act, the Brattleboro Retreat, Rutland Regional Medical Center, and an interim secure residential facility are to temporarily meet the immediate needs of the state.

Sec. 38. EFFECTIVE DATES

This act shall take effect on passage, except for Sec. 34 of this act which shall take effect on July 1, 2012.

CLAIRE D. AYER

ROBERT M. HARTWELL

KEVIN J. MULLIN

Committee on the part of the Senate

ANN D. PUGH

SANDY J. HAAS

ALICE M. EMMONS

Committee on the part of the House

Which was considered and adopted on the part of the House.

Bill Amended; Third Reading Ordered**H. 780**

Rep. Atkins of Winooski spoke for the committee on Government Operations.

Rep. Winters of Williamstown, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to compensation for certain state employees

Reported in favor of its passage when amended as follows:

Sec. 10. PAY ACT FUNDING

The compensation provided in this act shall be funded by appropriations made in H.781 of the 2011–2012 session of the general assembly in Sec. B.1200 for fiscal year 2013 and in Sec. BB.1200 for fiscal year 2014.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Appropriations agreed to and third reading ordered.

Favorable Report; Third Reading Ordered**H. 774**

Rep. Zagar of Barnard spoke for the committee on Agriculture.

Rep. Branagan of Georgia, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Favorable Report; Third Reading Ordered**H. 773**

Rep. Head of South Burlington spoke for the committee on General, Housing and Military Affairs.

Rep. Sharpe of Bristol, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to veterans' tax exemption

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At two o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, March 28, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by teachers, Terry Frey, Sharon Somers and Linda Copping from the Barre City Elementary School.

House Bill Introduced

H. 786

By Rep. Sweaney of Windsor,

House bill, entitled

An act relating to approval of amendments to the charter of the town of Windsor;

To the committee on Government Operations.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 202

Senate bill, entitled

An act relating to regulation of flood hazard areas, river corridors, and stream alteration;

Was taken up, read the first time and referred to the committee on Fish, Wildlife & Water Resources.

S. 214

Senate bill, entitled

An act relating to customer rights regarding smart meters;

Was taken up, read the first time and referred to the committee on Natural Resources and Energy.

Joint Resolution Adopted in Concurrence**J.R.S. 53**

By Senators Carris and Mullin,

J.R.S. 53. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, March 29, 2012, or, Friday, March 30, 2012, it be to meet again no later than Tuesday, April 3, 2012.

Was taken up read and adopted in concurrence.

Bill Ordered to Lie**H. 775**

House bill, entitled

An act relating to allowed interest rates for installment loans

Having appeared on the Calendar one day for notice, was taken up and pending second reading of the bill, on motion of **Rep. Ralston of Middlebury** the bill was ordered to lie.

Third Reading; Bill Passed**H. 535**

House bill, entitled

An act relating to racial disparities in the Vermont criminal justice system

Was taken up and read the third time.

Pending the question, Shall the bill pass? **Rep. Lorber of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 132. Nays, 7.

Those who voted in the affirmative are:

Acinapura of Brandon
Ancel of Calais
Andrews of Rutland City
Atkins of Winooski
Bartholomew of Hartland
Batchelor of Derby
Bissonnette of Winooski
Bohi of Hartford

Botzow of Pownal
Bouchard of Colchester
Branagan of Georgia
Brennan of Colchester
Browning of Arlington
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington

Canfield of Fair Haven
Cheney of Norwich
Christie of Hartford
Clark of Vergennes
Clarkson of Woodstock
Condon of Colchester
Conquest of Newbury
Consejo of Sheldon

Copeland-Hanzas of Bradford	Kilmartin of Newport City	Partridge of Windham
Corcoran of Bennington	Kitzmiller of Montpelier	Pearce of Richford
Courcelle of Rutland City	Klein of East Montpelier	Pearson of Burlington
Crawford of Burke	Koch of Barre Town	Peltz of Woodbury
Dakin of Chester	Komline of Dorset	Perley of Enosburgh
Davis of Washington	Krebs of South Hero	Poirier of Barre City
Deen of Westminster	Krowinski of Burlington	Potter of Clarendon
Degree of St. Albans City	Kupersmith of South Burlington	Pugh of South Burlington
Devereux of Mount Holly	Lanpher of Vergennes	Ralston of Middlebury
Dickinson of St. Albans Town	Larocque of Barnet	Ram of Burlington
Donovan of Burlington	Lawrence of Lyndon	Reis of St. Johnsbury
Edwards of Brattleboro	Lenes of Shelburne	Russell of Rutland City
Ellis of Waterbury	Lerich of Hardwick	Savage of Swanton
Emmons of Springfield	Lewis of Berlin	Scheuermann of Stowe
Evans of Essex	Lippert of Hinesburg	Shand of Weathersfield
Fagan of Rutland City	Lorber of Burlington	Sharpe of Bristol
Fisher of Lincoln	Macaig of Williston	Shaw of Pittsford
Frank of Underhill	Manwaring of Wilmington	Smith of New Haven
French of Shrewsbury	Marcotte of Coventry	South of St. Johnsbury
French of Randolph	Marek of Newfane	Spengler of Colchester
Gilbert of Fairfax	Martin of Springfield	Stevens of Waterbury
Grad of Moretown	Martin of Wolcott	Stevens of Shoreham
Greshin of Warren	Masland of Thetford	Stuart of Brattleboro
Haas of Rochester	McCullough of Williston	Sweaney of Windsor
Head of South Burlington	McFaun of Barre Town	Taylor of Barre City
Heath of Westford	McNeil of Rutland Town	Till of Jericho
Hebert of Vernon	Miller of Shaftsbury	Townsend of Randolph
Helm of Fair Haven	Mook of Bennington	Trieber of Rockingham
Higley of Lowell	Moran of Wardsboro	Waite-Simpson of Essex
Hooper of Montpelier	Mrowicki of Putney	Webb of Shelburne
Hubert of Milton	Munger of South Burlington	Wilson of Manchester
Jerman of Essex	Myers of Essex	Winters of Williamstown
Jewett of Ripton	Nuovo of Middlebury	Wizowaty of Burlington
Johnson of South Hero	O'Brien of Richmond	Woodward of Johnson
Johnson of Canaan	Olsen of Jamaica	Wright of Burlington
	O'Sullivan of Burlington	Yantachka of Charlotte
		Zagar of Barnard

Those who voted in the negative are:

Burditt of West Rutland	Eckhardt of Chittenden	Turner of Milton
Donaghy of Poultney	Lewis of Derby	
Donahue of Northfield *	Strong of Albany	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Malcolm of Pawlet	Toll of Danville
Howard of Cambridge	McAllister of Highgate	Young of Glover
Howrigan of Fairfield	Morrissey of Bennington	
Keenan of St. Albans City	Peaslee of Guildhall	

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

I have three black nephews who have encountered racism in Vermont. We have enough data to support more action, not just more data-gathering. We do too many studies that lead nowhere.”

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 773

House bill, entitled

An act relating to veterans’ tax exemption

H. 774

House bill, entitled

An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths

Third Reading; Bill Passed

H. 780

House bill, entitled

An act relating to compensation for certain state employees

Was taken up and read the third time.

Pending the question, Shall the bill pass? **Rep. Leriche of Hardwick** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 135. Nays, 3.

Those who voted in the affirmative are:

Acinapura of Brandon	Brennan of Colchester	Conquest of Newbury
Ancel of Calais	Browning of Arlington	Consejo of Sheldon
Andrews of Rutland City	Burditt of West Rutland	Copeland-Hanzas of
Atkins of Winooski	Burke of Brattleboro	Bradford
Bartholomew of Hartland	Buxton of Tunbridge	Corcoran of Bennington
Batchelor of Derby	Campion of Bennington	Courcelle of Rutland City
Bissonnette of Winooski	Canfield of Fair Haven	Crawford of Burke
Bohi of Hartford	Cheney of Norwich	Dakin of Chester
Botzow of Pownal	Christie of Hartford	Davis of Washington
Bouchard of Colchester	Clarkson of Woodstock	Deen of Westminster
Branagan of Georgia	Condon of Colchester	Degree of St. Albans City

Devereux of Mount Holly	Krowinski of Burlington	Peltz of Woodbury
Donaghy of Poultney	Kupersmith of South	Perley of Enosburgh
Donahue of Northfield	Burlington	Poirier of Barre City
Donovan of Burlington	Lanpher of Vergennes	Potter of Clarendon
Eckhardt of Chittenden	Larocque of Barnet	Pugh of South Burlington
Edwards of Brattleboro	Lawrence of Lyndon	Ralston of Middlebury
Ellis of Waterbury	Lenes of Shelburne	Ram of Burlington
Emmons of Springfield	Lerich of Hardwick	Reis of St. Johnsbury
Evans of Essex	Lewis of Berlin	Russell of Rutland City
Fagan of Rutland City	Lewis of Derby	Savage of Swanton
Fisher of Lincoln	Lippert of Hinesburg	Scheuermann of Stowe
Frank of Underhill	Lorber of Burlington	Shand of Weathersfield
French of Shrewsbury	Macaig of Williston	Sharpe of Bristol
French of Randolph	Manwaring of Wilmington	Shaw of Pittsford
Gilbert of Fairfax	Marcotte of Coventry	Smith of New Haven
Grad of Moretown	Marek of Newfane	South of St. Johnsbury
Greshin of Warren	Martin of Springfield	Spengler of Colchester
Haas of Rochester	Martin of Wolcott	Stevens of Waterbury
Head of South Burlington	Masland of Thetford	Stevens of Shoreham
Heath of Westford	McCullough of Williston	Sweaney of Windsor
Hebert of Vernon	McFaun of Barre Town	Taylor of Barre City
Helm of Fair Haven	McNeil of Rutland Town	Till of Jericho
Higley of Lowell	Miller of Shaftsbury	Townsend of Randolph
Hooper of Montpelier	Mook of Bennington	Trieber of Rockingham
Hubert of Milton	Moran of Wardsboro	Waite-Simpson of Essex
Jerman of Essex	Mrowicki of Putney	Webb of Shelburne
Jewett of Ripton	Munger of South Burlington	Wilson of Manchester
Johnson of South Hero	Myers of Essex	Winters of Williamstown
Johnson of Canaan	Nuovo of Middlebury	Wizowaty of Burlington
Kilmartin of Newport City	O'Brien of Richmond	Woodward of Johnson
Kitzmiller of Montpelier	Olsen of Jamaica	Wright of Burlington
Klein of East Montpelier	O'Sullivan of Burlington	Yantachka of Charlotte
Koch of Barre Town	Partridge of Windham	Young of Glover
Komline of Dorset	Pearce of Richford	Zagar of Barnard
Krebs of South Hero	Pearson of Burlington	

Those who voted in the negative are:

Dickinson of St. Albans	Strong of Albany
Town	Turner of Milton *

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Keenan of St. Albans City	Peaslee of Guildhall
Clark of Vergennes	Malcolm of Pawlet	Stuart of Brattleboro
Howard of Cambridge	McAllister of Highgate	Toll of Danville
Howrigan of Fairfield	Morrissey of Bennington	

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

I too appreciate the work and sacrifices of all state employees throughout this economic downturn. Many question whether we are actually out of this recession so I cannot support pay increases that average 8% and some that top out at over 11%. This is not fiscally responsible and therefore I cannot support this bill.

Again, thank you to all state employees for all that they have done and continue to do for Vermont. Thank you.”

Bill Amended, Read Third Time and Passed

H. 782

House bill, entitled

An act relating to miscellaneous tax changes for 2012

Was taken up and pending third reading of the bill, **Rep. Degree of St. Albans City** moved to amend the bill as follows:

By adding a Sec. 26a to read as follows:

Sec. 26a. LANDLORD CERTIFICATES

The commissioner of taxes shall report to the senate committee on finance and the house committee on ways and means no later than January 15, 2013 on how to develop an electronic system for the reporting and issuance of the landlord certificate under 32 V.S.A. § 6069. The commissioner’s report shall include recommendations for legislative changes to implement such a system.

Which was agreed to.

Pending third reading of the bill, **Rep. Degree of St. Albans City** moved to amend the bill as follows:

By striking Secs. 23 (determination of property tax adjustments), 24 (late filing penalties), and 25 (amendment of certain claims) of the bill and inserting in lieu thereof the following:

Sec. 23. 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

(a) Annually, the commissioner shall determine the property tax adjustment amount under section 6066 of this title, related to a homestead owned by the claimant. The commissioner shall notify the municipality in which the housesite is located of the amount of the property tax adjustment for the claimant for homestead property tax liabilities, on July 1 for ~~timely filed~~

timely filed claims and on ~~September 15~~ December 15 for late claims filed by ~~September 1~~ December 1. The tax adjustment of a claimant who was assessed property tax by a town which revised the dates of its fiscal year, however, is the excess of the property tax which was assessed in the last 12 months of the revised fiscal year, over the adjusted property tax of the claimant for the revised fiscal year as determined under section 6066 of this title, related to a homestead owned by the claimant.

* * *

(c) The commissioner shall notify the municipality of any claim and refund amounts unresolved by ~~September 15~~ December 15 at the time of final resolution, including adjudication if any; provided, however, that towns will not be notified of any additional adjustment amounts after ~~September 15~~ December 15 of the claim year, and such amounts shall be paid to the claimant by the commissioner.

* * *

(f) Property tax bills.

(1) For amounts stated in the notice to towns on July 1, municipalities shall include on the homestead property tax bill notice to the taxpayer of the total amount allocated to payment of homestead education property tax liabilities and notice of the balance due. Municipalities shall apply the amount allocated under this chapter to current-year property taxes in equal amounts to each of the taxpayers' property tax installments that include education taxes.

(2) For property tax adjustment amounts for which municipalities receive notice on or after ~~September 15~~ December 15, municipalities shall issue a new homestead property tax bill with notice to the taxpayer of the total amount allocated to payment of homestead property tax liabilities and notice of the balance due.

* * *

(g) Annually, on August 1 and on ~~September 15~~ December 15, the commissioner of taxes shall pay to each municipality the amount of property tax adjustment of which the municipality was notified on July 1 for the August 1 transfer, or ~~September 15~~ December 15 for the ~~September 15~~ December 15 transfer, related to municipal property tax on homesteads within that municipality, as determined by the commissioner of taxes.

Sec. 24. 32 V.S.A. § 6068(b) and (c) are amended to read:

(b) Late-filing penalties. If the claimant fails to file a timely claim, the amount of the property tax adjustment under this chapter shall be reduced by

\$15.00, but not below \$0.00, which shall be paid to the municipality for the cost of issuing an adjusted homestead property tax bill. No benefit shall be allowed in the calendar year unless the claim is filed with the commissioner on or before ~~September 1~~ December 1.

(c) No request for allocation of an income tax refund or for a renter rebate claim may be made after ~~September 1~~ December 1.

Sec. 25. 32 V.S.A. § 6074 is amended to read:

§ 6074. AMENDMENT OF CERTAIN CLAIMS

At any time within three years after the date for filing claims under subsection 6068(a) of this chapter, a claimant who filed a claim by ~~September 1~~ December 1 may file to amend that claim to correct the amount of household income reported on that claim.

Pending the question, Shall the bill be amended as recommended by Rep. Degree of St. Albans City? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Degree of St. Albans City? was decided in the negative. Yeas, 45. Nays, 93.

Those who voted in the affirmative are:

Andrews of Rutland City	Eckhardt of Chittenden	Olsen of Jamaica
Batchelor of Derby	Fagan of Rutland City	Pearce of Richford
Bouchard of Colchester	French of Shrewsbury	Pearson of Burlington
Branagan of Georgia	Hebert of Vernon	Peaslee of Guildhall
Brennan of Colchester	Helm of Fair Haven	Perley of Enosburgh
Burditt of West Rutland	Higley of Lowell	Reis of St. Johnsbury
Buxton of Tunbridge	Hubert of Milton	Savage of Swanton
Canfield of Fair Haven	Kilmartin of Newport City	Scheuermann of Stowe
Consejo of Sheldon	Komline of Dorset	Shaw of Pittsford
Crawford of Burke	Larocque of Barnet	Smith of New Haven
Davis of Washington	Lawrence of Lyndon	Strong of Albany
Degree of St. Albans City *	Lewis of Berlin	Trieber of Rockingham
Devereux of Mount Holly	Lewis of Derby	Turner of Milton
Dickinson of St. Albans	Marcotte of Coventry	Wright of Burlington
Town	McFaun of Barre Town	
Donaghy of Poultney	Myers of Essex	

Those who voted in the negative are:

Acinapura of Brandon	Bissonnette of Winooski	Burke of Brattleboro
Ancel of Calais	Bohi of Hartford	Campion of Bennington
Atkins of Winooski	Botzow of Pownal	Cheney of Norwich
Bartholomew of Hartland	Browning of Arlington	Christie of Hartford

Clarkson of Woodstock	Klein of East Montpelier	Peltz of Woodbury
Condon of Colchester	Koch of Barre Town	Poirier of Barre City
Conquest of Newbury	Krebs of South Hero	Potter of Clarendon
Corcoran of Bennington	Krowinski of Burlington	Pugh of South Burlington
Courcelle of Rutland City	Kupersmith of South	Ralston of Middlebury
Dakin of Chester	Burlington	Ram of Burlington
Deen of Westminster	Lanpher of Vergennes	Russell of Rutland City
Donahue of Northfield	Lenes of Shelburne	Shand of Weathersfield
Donovan of Burlington	Lerich of Hardwick	Sharpe of Bristol
Edwards of Brattleboro	Lippert of Hinesburg	South of St. Johnsbury
Ellis of Waterbury	Lorber of Burlington	Stevens of Waterbury
Emmons of Springfield	Macaig of Williston	Stevens of Shoreham
Evans of Essex	Manwaring of Wilmington	Stuart of Brattleboro
Fisher of Lincoln	Marek of Newfane *	Sweaney of Windsor
Frank of Underhill	Martin of Springfield	Taylor of Barre City
French of Randolph	Martin of Wolcott	Till of Jericho
Gilbert of Fairfax	Masland of Thetford	Townsend of Randolph
Grad of Moretown	McCullough of Williston	Waite-Simpson of Essex
Greshin of Warren	McNeil of Rutland Town	Webb of Shelburne
Haas of Rochester	Miller of Shaftsbury	Wilson of Manchester
Head of South Burlington	Mook of Bennington	Winters of Williamstown
Heath of Westford	Moran of Wardsboro	Wizowaty of Burlington
Hooper of Montpelier	Mrowicki of Putney	Woodward of Johnson
Jerman of Essex	Munger of South Burlington	Yantachka of Charlotte
Jewett of Ripton	Nuovo of Middlebury	Young of Glover
Johnson of South Hero	O'Brien of Richmond	Zagar of Barnard
Johnson of Canaan	O'Sullivan of Burlington	
Kitzmiller of Montpelier	Partridge of Windham	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Howard of Cambridge	McAllister of Highgate
Clark of Vergennes	Howrigan of Fairfield	Morrissey of Bennington
Copeland-Hanzas of	Keenan of St. Albans City	Spengler of Colchester
Bradford	Malcolm of Pawlet	Toll of Danville

Rep. Degree of St. Albans City explained his vote as follows:

“Mr. Speaker:

It is a shame that at a time when Vermonters are struggling, we chose to slam the door of opportunity when it could offer relief to many low-income Vermonters. Instead of keeping it open for a little longer.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

Having already extended this filing deadline once in this session, shouldn't we at least see if that works before changing it again with a last-minute floor

amendment? Such vacillation is not thoughtful legislating and it ill serves Vermonters and this body.”

Thereupon, the bill was read the third time.

Thereupon, **Rep. Pearson of Burlington** asked leave of the House to offer an amendment after third reading, which was disagreed to on a Division vote. Yeas, 40. Nays, 61.

Pending the question, Shall the bill pass? **Rep. Browning of Arlington** moved to recommit the bill to the committee on Ways and Means, which was disagreed to.

Pending the question, Shall the bill pass? **Rep. Deen of Westminster** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 125. Nays, 14.

Those who voted in the affirmative are:

Acinapura of Brandon	Eckhardt of Chittenden	Lanpher of Vergennes
Ancel of Calais	Edwards of Brattleboro	Larocque of Barnet
Andrews of Rutland City	Ellis of Waterbury	Lawrence of Lyndon
Atkins of Winooski	Emmons of Springfield	Lenes of Shelburne
Bartholomew of Hartland	Evans of Essex	Lerich of Hardwick
Bissonnette of Winooski	Fagan of Rutland City *	Lewis of Berlin
Bohi of Hartford	Fisher of Lincoln	Lewis of Derby
Botzow of Pownal	Frank of Underhill	Lippert of Hinesburg
Branagan of Georgia	French of Shrewsbury	Lorber of Burlington
Browning of Arlington *	French of Randolph	Macaig of Williston
Burke of Brattleboro	Gilbert of Fairfax	Manwaring of Wilmington
Buxton of Tunbridge	Grad of Moretown	Marcotte of Coventry
Campion of Bennington	Greshin of Warren	Marek of Newfane
Cheney of Norwich	Haas of Rochester	Martin of Springfield
Christie of Hartford	Head of South Burlington	Martin of Wolcott
Clarkson of Woodstock	Heath of Westford	Masland of Thetford
Condon of Colchester	Hooper of Montpelier	McCullough of Williston
Conquest of Newbury	Jerman of Essex	McFaun of Barre Town
Consejo of Sheldon	Jewett of Ripton	McNeil of Rutland Town
Copeland-Hanzas of	Johnson of South Hero	Miller of Shaftsbury
Bradford	Johnson of Canaan	Mook of Bennington
Corcoran of Bennington	Kilmartin of Newport City	Moran of Wardsboro
Courcelle of Rutland City	Kitzmiller of Montpelier	Mrowicki of Putney *
Crawford of Burke	Klein of East Montpelier	Munger of South Burlington
Dakin of Chester	Koch of Barre Town	Myers of Essex
Deen of Westminster	Komline of Dorset	Nuovo of Middlebury
Degree of St. Albans City	Krebs of South Hero	O'Brien of Richmond
Devereux of Mount Holly	Krowinski of Burlington	Olsen of Jamaica
Donahue of Northfield	Kupersmith of South	O'Sullivan of Burlington
Donovan of Burlington	Burlington	Partridge of Windham

Pearce of Richford	Shand of Weathersfield	Trieber of Rockingham
Pearson of Burlington	Sharpe of Bristol	Waite-Simpson of Essex
Peaslee of Guildhall	Shaw of Pittsford	Webb of Shelburne
Peltz of Woodbury	Smith of New Haven	Wilson of Manchester
Perley of Enosburgh	South of St. Johnsbury	Winters of Williamstown
Poirier of Barre City	Spengler of Colchester	Wizowaty of Burlington
Potter of Clarendon	Stevens of Waterbury	Woodward of Johnson
Pugh of South Burlington	Stevens of Shoreham	Wright of Burlington *
Ralston of Middlebury	Stuart of Brattleboro	Yantachka of Charlotte
Ram of Burlington	Sweaney of Windsor	Young of Glover
Reis of St. Johnsbury	Taylor of Barre City	Zagar of Barnard
Russell of Rutland City	Till of Jericho	
Scheuermann of Stowe	Townsend of Randolph	

Those who voted in the negative are:

Batchelor of Derby	Dickinson of St. Albans	Higley of Lowell
Bouchard of Colchester	Town	Hubert of Milton
Brennan of Colchester	Donaghy of Poultney	Savage of Swanton
Burditt of West Rutland	Hebert of Vernon *	Strong of Albany
Canfield of Fair Haven	Helm of Fair Haven	Turner of Milton

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Howrigan of Fairfield	Morrissey of Bennington
Clark of Vergennes	Keenan of St. Albans City	Toll of Danville
Davis of Washington	Malcolm of Pawlet	
Howard of Cambridge	McAllister of Highgate	

Rep. Botzow of Pownal explained his vote as follows:

“Mr. Speaker:

H. 782 extends VEGI, an important economic development tool that delivers jobs to Vermonters and wealth to our communities. Our economic development folks at all levels from state to town need and appreciate this support for their hard work.”

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I vote ‘yes’ because there are useful changes in this bill. But I will continue to raise the issue of how the costs of tax expenditures like VEGI are tracked and whether alternative uses for such funds are properly considered. We must be good stewards of the allocations of tax revenue by Ways & Means just as we are of actual appropriations by the Appropriations Committee.”

Rep. Fagan of Rutland City explained his vote as follows:

“Mr. Speaker:

I would like to thank the Ways & Means Committee for their work to update antiquated language pertaining to Meals & Rooms Tax Provisions. Residents of our state should not need to pay a meals tax on the meals they eat in their home. As such I vote ‘yes’.”

Rep. Hebert of Vernon explained his vote as follows:

“Mr. Speaker:

No. When Vermont breaches its contracts what message does this give to current Vermont businesses and new businesses contemplating coming to Vermont?”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

With the arrival of spring, claims of one-third of Vermont’s electricity may suddenly have become inoperative and promises of low-cost electricity may suddenly have become inoperative, but at least we have not conferred a \$6 million gift for the privilege of being jilted.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

I voted to support the work and long deliberations of your committee on Ways & Means. I especially appreciate the idea that if a corporation that can pay its CEO an exorbitant salary that has 6 zeroes before the other numbers, won’t look out for the future of its Vermont employees then we can exhibit the social and economic responsibility to plan for the future.”

Rep. Kurt Wright of Burlington explained his vote as follows:

“Mr. Speaker:

My ‘yes’ vote reflects my belief that there are, in fact, many items that benefit taxpayers in this bill, including two items I had previously worked on – repeal of the double counting of interest and dividend income, which especially helps retirees, and creation of an appeal process for taxpayers to the Commissioner.”

Third Reading; Bill Passed

H. 785

House bill, entitled

An act relating to capital construction and state bonding budget adjustment

Was taken up, read the third time and passed.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 535

House bill, entitled

An act relating to racial disparities in the Vermont criminal justice system

H. 773

House bill, entitled

An act relating to veterans' tax exemption

H. 774

House bill, entitled

An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths

H. 780

House bill, entitled

An act relating to compensation for certain state employees

H. 782

House bill, entitled

An act relating to miscellaneous tax changes for 2012

H. 785

House bill, entitled

An act relating to capital construction and state bonding budget adjustment

Adjournment

At three o'clock and fifty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at twelve o'clock and fifty-five minutes in the afternoon.

Thursday, March 29, 2012

At twelve o'clock and fifty-five minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Peter Plagge of the Waterbury Congregational Church, Waterbury, VT.

Joint Assembly

At one o'clock in the afternoon, the hour for the Joint Assembly having arrived, pursuant to the provisions of Joint resolution, entitled

J.R.S. 50. Joint resolution providing for a Joint Assembly to vote on the retention of three Superior Judges;

The Senate appeared in the Hall of the House.

Thereupon, the Joint Assembly having concluded its session, at two o'clock o'clock and five minutes in the afternoon, the Speaker resumed the Chair.

Message from the Senate No. 34

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 115. An act relating to ineffective assistance claims against assigned counsel.

S. 238. An act relating to expanding access to driving privileges in Vermont.

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

House Bill Introduced**H. 787**

By Reps. Hooper of Montpelier and Kitzmiller of Montpelier,

House bill, entitled

An act relating to approval of amendments to the charter of the city of Montpelier;

To the committee on Government Operations.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 115

Senate bill, entitled

An act relating to ineffective assistance claims against assigned counsel;

To the committee on Judiciary.

S. 238

Senate bill, entitled

An act relating to expanding access to driving privileges in Vermont;

To the committee on Transportation.

Committee Appointment

The Speaker appointed **Rep. O'Brien of Richmond** to the committee on Government Accountability.

Bill Amended; Third Reading Ordered**H. 496**

Rep. Stevens of Shoreham, for the committee on Agriculture, to which had been referred House bill, entitled

An act relating to preserving Vermont's working landscape

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 207 is amended to read:

CHAPTER 207. PROMOTION AND MARKETING OF VERMONT
FOODS AND PRODUCTS

Subchapter 1. Agricultural Practices and Production

* * *

Subchapter 2. The Vermont Working Lands Enterprise Program

§ 4603. LEGISLATIVE FINDINGS

The general assembly finds:

(1) The report issued by the Council on the Future of Vermont indicates that over 97 percent of Vermonters polled endorsed the value of the "working landscape" as key to our future.

(2) Vermont's unique agricultural and forest assets—its working landscape—are crucial to the state's economy, communities, character, and

culture. These assets provide jobs, food and fiber, energy, security, tourism and recreational opportunities, and a sense of well-being. They contribute to Vermont's reputation for quality, resilience, and self-reliance.

(3) Human activity involving Vermont's agricultural and forestland has been integral to the development of Vermont's economy, culture, and image. Sustainable land use will need to balance economic development demands with the other services the land provides, many of which have economic benefits beyond the agriculture and forest product sectors. Some of these benefits include clean air and water, recreational opportunities, ecosystem restoration, scenic vistas, and wildlife habitat.

(4) The agriculture and forest product sectors are similar and share many of the same challenges. There are potential benefits to be realized by the joining of these sectors in development planning and coordination, making policy decisions, and leveraging economic opportunities.

(5) The agriculture and forest product sectors provide renewable and harvestable products that form the basis of Vermont's land-based economy. The conversion of these raw commodities into value-added products within our borders represents further economic and employment opportunities.

(6) Vermont is in the midst of an agricultural renaissance and is at the forefront of the local foods movement. The success has been due to the efforts of skilled and dedicated farmers, creative entrepreneurs, and the strategic investment of private and public funds.

(7) State investment in a given industry or economic sector is often essential to stimulate and attract additional private and philanthropic investment. The combination of public, private, and foundation support can create enterprise opportunities that any one of them alone cannot. Grants issued as a result of No. 52 of the Acts of 2011 helped create jobs and economic activity in the agricultural sector. They also leveraged private and foundation investments.

(8) Vermont's land-based economy has proven to be a driver for Vermont's ongoing economic recovery.

(9) Value-added and specialty Vermont products are a growing source of revenue for Vermont's agricultural producers, many of whom have benefited from the existing infrastructure requirements of commodity producers. Both export and instate markets are necessary options for the agriculture and forest product sectors' economic development.

(10) The Vermont brand is highly regarded both nationally and internationally. Forest management is seen as crop management by those

active in the forest product industry. An actively managed forest is a healthy and productive one.

(11) Vermont's agriculture and forest product sectors have not been perceived or treated as businesses by the traditional business and lending communities. They often lack available capital and financial package options that match their stage of development.

(12) Financial service and workforce development programs need to be customized to meet the unique needs of Vermont's agriculture and forest product sectors. Landowner education and labor skills training are also important for future productive management of forestlands.

(13) Scale is an important determining factor for the successful development of businesses that utilize Vermont's agriculture and forest products. Other limiting factors include labor and transportation costs, support services, resource base, and the regulatory environment.

(14) Workers' compensation, health care, energy costs, and regulatory requirements are a major concern to the agriculture and forest product sectors. For example, workers' compensation premiums for loggers may run as high as 48 percent of each dollar of wages.

(15) The amount of land in Vermont is finite, and part of its community and economic value is tied to the way it is used. Farmland and forestland that are developed for other uses affect the future viability of remaining farms and forest enterprises.

(16) A forestland owner is often not the person actively engaged in the business of land management, such as planning, harvesting, or marketing the raw product, whereas in agricultural operations, the farmer often owns both the land and the business. Many farm operations have woodlots that have traditionally been used for syrup, timber, and firewood production.

(17) Vermonters' perception of and support for local wood and forest products is not at the same level as it is for local food. Public outreach and education efforts need to be created to address the public's perception of actively managed working lands and the people who perpetuate them. Over the last decade, consumers of wood products have become more interested in production and management methods, certification programs, and the source of the raw materials.

(18) Vermont's forest products industry has been in decline for many years, in part due to rising costs, a poor housing market, and a lack of manufacturing. The total value of the forest product industry has dropped from \$1.8 billion to \$1.3 billion since 2007. If wood chips were priced at the

equivalent BTU replacement value of oil, they would command a higher price. The number of active sawmills has also declined to fewer than 20 today.

(19) The average age of Vermont's farmers and loggers is over 55 years and the average age of forestland owners is over 65. Attention needs to be brought to efforts that will ensure intergenerational succession and lower those averages. Economically viable farm and forest-based operations are critical to that goal. "Legacy" skills such as farming and logging are disappearing, as the children of those making a living from those skills often aspire to different employment opportunities.

(20) Access to land is a challenge for many, especially younger, people who want the opportunity to make a living from productive use of the land. Farm and forestland ownership is often out of reach for young people who do not have some sort of assistance.

(21) The Vermont forest product sector contains approximately 7,000 jobs, and approximately 57,000 jobs are in Vermont's food system.

(22) Regulations for forest product enterprises need to reflect a balance between economic development and responsible land use practices. There is a need to assess regulations involving the primary processing and transportation elements of the forest product sector.

(23) Seventy-six percent of Vermont's 4.5 million acres is forested, 84 percent of which is privately owned. Sustainable management of state-owned forestlands represents an opportunity for private sector forest businesses.

(24) Forest product sector representatives have identified needs for their industry including market development, additional secondary processing facilities, lower energy and transportation costs, and capital for growth enterprises as well as research and development for new and improved value-added products that make use of Vermont's forest resources. Factors such as health care, labor, and energy policies in Canada contribute to the northward flow of Vermont logs. Research is needed in order to develop strategies that will help keep Vermont's forest product sector competitive.

(25) Vermont's Use Value Appraisal (Current Use) Program is critically important to every component of Vermont's agriculture and forest product sectors. It also helps keep Vermont forestland productive and healthy through the requirement of active forest management plans.

(26) Dairy enterprises remain Vermont's leading source of agricultural revenues, with an estimated annual economic impact of over \$2 billion or approximately 75 percent of total gross agricultural output.

(27) Recent grants and educational programs have started to address the lack of slaughter and meat-processing facilities in the state; however, there continues to be a strong need to further these efforts.

§ 4604. LEGISLATIVE INTENT

It is the intent of the general assembly in adopting this subchapter to:

(1) stimulate a concerted economic development effort on behalf of Vermont's agriculture and forest product sectors by systematically advancing entrepreneurship, business development, and job creation;

(2) recognize and build on the similarities and unique qualities of Vermont's agriculture and forest product sectors;

(3) increase the value of Vermont's raw and value-added products through the development of in-state and export markets;

(4) attract a new generation of entrepreneurs to Vermont's farm, food system, forest, and value-added chain by facilitating more affordable access to the working landscape;

(5) provide assistance to agricultural and forest product businesses in navigating the regulatory process;

(6) use Vermont's brand recognition and reputation as a national leader in food systems development, innovative entrepreneurship, and as a "green" state to leverage economic development and opportunity in the agriculture and forest product sectors;

(7) promote the benefits of Vermont's working lands, from the economic value of raw and value-added products to the public value of ecological stability, land stewardship, recreational opportunities, and quality of life;

(8) increase the amount of state investment in working lands enterprises, particularly when it leverages private and philanthropic funds; and

(9) support the people and businesses that depend on Vermont's renewable land-based resources and the sustainable and productive use of the land by coordinating and integrating financial products and programs.

§ 4605. VERMONT WORKING LANDS ENTERPRISE FUND

There is created a special fund in the state treasury to be known as the "Vermont working lands enterprise fund." Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5:

(1) the fund shall be administered and the monies of the funds shall be expended by the Vermont working lands enterprise board created in section 4606 of this title;

(2) the fund shall be composed of moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public, approved by the board, and unexpended balances and any earnings shall remain in the fund from year to year; and

(3) the board shall make expenditures from the fund consistent with the duties and authority of the board established by section 4607 of this title.

§ 4606. VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Creation and purpose. There is created a Vermont working lands enterprise board, which for administrative purposes shall be attached to the agency of agriculture, food and markets. The board shall:

(1) serve as a driving force for working lands enterprise development in Vermont;

(2) systematically advance entrepreneurship, business development, and job creation in the agricultural and forest product sectors by:

(A) supporting development of new land-based and value-added businesses;

(B) supporting the expansion of existing businesses and potentially high-growth enterprises;

(C) providing infrastructure investments that will support cluster development and spur business success and rural prosperity;

(D) acting as a clearinghouse of support for innovation and growth in the food, farm, forest product and biomass energy sectors including:

(i) regulatory issues;

(ii) financial and investment opportunities; and

(iii) technical assistance services;

(E) supporting outreach and communication of enterprise opportunities;

(3) evaluate quality and breadth of workforce development, technical assistance, and investment service programs to the agriculture and forest product service sectors;

(4) target financial products that are in line with infrastructure investment priorities;

(5) establish and evaluate criteria and benchmarks of investments and actions; and

(6) solicit appropriate perspectives and information from experts.

(b) Organization of board. The board shall be composed of the following members:

(1) the secretary of agriculture, food and markets or designee, who shall serve as chair;

(2) the secretary of commerce and community development or designee;

(3) the commissioner of forests, parks and recreation or designee;

(4) eleven members appointed by the Vermont agriculture and forest products development board as follows:

(A) four members each representing one of the four highest-grossing agricultural commodities produced in Vermont as determined on the basis of annual gross cash sales;

(B) three members representing the forest products industry; and

(C) four members each representing one of the following four sectors:

(i) energy;

(ii) workforce development;

(iii) private capital; and

(iv) distribution and marketing;

(5) two members, one appointed by each of the two largest membership-based agricultural organizations in Vermont;

(6) the following three members, who shall serve as ex officio, non-voting members:

(A) the manager of the Vermont economic development authority or designee;

(B) the executive director of the Vermont sustainable jobs fund or designee; and

(C) the executive director of the Vermont housing conservation board or designee.

(c) Members appointed pursuant to subdivisions (b)(4) and (b)(5) of this section shall serve a term of three years or until his or her earlier resignation or removal for cause by a two-thirds vote of the sitting members of the board. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. A member shall not serve more than three consecutive three-year terms.

(d) The board may elect officers, establish one or more committees or subcommittees, and adopt such procedural rules as it shall determine necessary and appropriate to perform its work.

(e) A majority of the sitting members shall constitute a quorum, and action taken by the board may be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(f) Private-sector members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each member shall be reimbursed from the fund for his or her actual and necessary expenses incurred in carrying out his or her duties.

§ 4607. POWERS AND DUTIES OF THE VERMONT WORKING LANDS

ENTERPRISE BOARD

The Vermont working lands enterprise board shall have the authority:

(1) to establish an application process and eligibility criteria for awarding grants, loans, incentives, and other investment in agricultural and forestry enterprises and in food and forest systems;

(2) to award grants and loans and to recommend incentives that support the purposes of the board under section 4606(a) of this title;

(3) to develop application criteria that will encourage individuals and enterprises that have not availed themselves of these opportunities in the past to apply for such grants, loans, and incentives;

(4) to give priority for awarding grants, loans, and incentives to applicants who have not recently received the same from the state or a state-funded entity;

(5) to establish formal public-private partnerships, coordinate the joint provision of investment and services with public or private entities, and enter into performance contracts with one or more persons in order to provide investment and services to agricultural and forestry enterprises, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) organizational, regulatory, and development assistance; and

(D) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies;

(6) to identify workforce needs and programs in order to develop training and incentive opportunities for the agriculture and forest product sectors;

(7) to identify strategic statewide infrastructure and investment priorities considering:

(A) leveraging opportunities;

(B) economic clusters;

(C) return-on-investment analysis; and

(D) other considerations the board determines appropriate;

(8) to pursue and accept grants or other funding from any public or private source and to administer such grants or funding consistent with their terms;

(9) to promote the products and services it provides to as many people and land-based enterprises as possible;

(10) to use the services and staff of the agency of agriculture, food and markets to assist in the performance of the board's duties, with the concurrence of the secretary of agriculture, food and markets; and

(11) to contract for support, technical, or other professional services necessary to perform its duties pursuant to this section.

Sec. 2. INITIAL APPOINTMENTS TO VERMONT WORKING LANDS

ENTERPRISE BOARD

Notwithstanding any provision of law to the contrary:

(1) the initial members of the Vermont working lands enterprise board to be appointed pursuant to 6 V.S.A. § 4606(b)(4)–(5) shall be appointed as follows:

(A) of the eleven members of the board appointed by the Vermont agriculture and forest products development board:

(i) four members shall be appointed to an initial term of one year;

(ii) four members shall be appointed to an initial term of two years; and

(iii) three members shall be appointed to an initial term of three years; and

(B) of the two members appointed by the two largest membership-based agricultural organizations in Vermont:

(i) the member representing the organization with the largest membership shall be appointed for an initial term of two years; and

(ii) the member representing the organization with the second largest membership shall be appointed for an initial term of three years; and

(2) the initial one-year and two-year member terms authorized in subdivisions (1)(A) and (1)(B) of this section shall not qualify as a full-term for purposes of the three-term limit established in 6 V.S.A. § 4606(c).

Sec. 3. 6 V.S.A. chapter 162, subchapter 1 (Vermont agricultural innovation center) is repealed.

Sec. 4. 6 V.S.A. § 2966 is amended to read:

§ 2966. AGRICULTURAL AND FOREST PRODUCTS DEVELOPMENT BOARD; ORGANIZATION; DUTIES AND AUTHORITY

(a) Purpose. The purpose of this section is to create a permanent Vermont agricultural and forest products development board that is authorized and empowered as the state's primary agricultural and forest products development entity.

(1) The board is charged with:

(A) optimizing the agricultural and forestry use of Vermont lands and other agricultural resources;

* * *

(2) The board shall:

(A) review existing strategies and plans and develop, ~~implement~~, and continually update a comprehensive statewide plan to guide and encourage agricultural and forest products development and new and expanded markets for agricultural and forest products;

(B) advise and make recommendations to the secretaries of relevant state agencies, the governor, the director of the state experiment station, the University of Vermont extension service, and the general assembly on the adoption and amendment of laws, regulations, and governmental policies that

affect agricultural development, land use, access to capital, the economic opportunities provided by Vermont agriculture and forest products, and the well-being of the people of Vermont;

(C) monitor and report on Vermont's progress in achieving the agricultural economic development goals identified by the board; and

(D) balance the needs of production methods with the opportunities to market products that enhance Vermont agriculture and forest products.

(b) Board created. The Vermont agricultural and forest products development board is hereby created. The exercise by the board of the powers conferred upon it in this section constitutes the performance of essential governmental functions.

(c) Powers and duties. The board shall have the authority and duty to:

* * *

(5) obtain information from other planning entities, including the ~~farm-to-plate~~ farm to plate investment program;

* * *

(d) Comprehensive agricultural and forest products economic development plan.

(1) Using information available from previous and ongoing agricultural and forest products development planning efforts, such as the ~~farm-to-plate~~ farm to plate investment program's strategic plan, and the board's own data and assumptions, the board shall develop and implement a comprehensive agricultural and forest products economic development plan for the state of Vermont. The plan shall include, at minimum, the following:

(A) an assessment of the current status of agriculture and forestry in Vermont;

(B) current and projected workforce composition and needs;

(C) a profile of emerging business and industry sectors projected to present future agricultural and forest products economic development opportunities, and a cost-benefit analysis of strategies and resources necessary to capitalize on these opportunities;

(D) a profile of current components of physical and social infrastructure affecting agricultural and forest products economic development;

(E) a profile of government-sponsored programs, agricultural and forest products economic development resources, and financial incentives

designed to promote and support agricultural and forest products economic development, and a cost-benefit analysis of continued support, expansion, or abandonment of these programs, resources, and incentives;

(F) the use of the Vermont brand to further agricultural and forest products economic development;

* * *

(2) Based on its research and analysis, the board shall establish in the plan a set of clear strategies with defined and measurable outcomes for agricultural and forest products economic development, the purpose of which shall be to guide long-term agricultural and forest products economic development policymaking and planning.

* * *

(4) The board shall conduct a periodic review and revision of the comprehensive agricultural and forest products economic development plan as often as is necessary in its discretion, but at minimum every five years, to ensure the plan remains current, relevant, and effective for guiding and evaluating agricultural and forest products economic development policy.

* * *

(e) Annual report. The board shall make available a report, at least annually, to the administration, the house committee on agriculture, the senate committee on agriculture, the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the people of Vermont on the state's progress toward attaining the goals and outcomes identified in the comprehensive agricultural and forest products economic development plan.

(f) Composition of board.

(1) The board shall be composed of ~~12~~ 16 members. In making appointments to the board pursuant to this section, the governor, the speaker of the house, and the president pro tempore of the senate shall coordinate their selections to ensure, to the greatest extent possible, that the board members selected by them reflect the following qualities:

(A) proven leadership in a broad range of efforts and activities to promote and improve the Vermont agricultural and forest products economy and the quality of life of Vermonters;

(B) demonstrated innovation, creativity, collaboration, pragmatism, and willingness to make long-term commitments of time, energy, and effort;

(C) geographic, gender, ethnic, social, political, and economic diversity;

(D) diversity of agricultural and forest products enterprise location, size, and sector of the for-profit agricultural and forest products business community members; and

(E) diversity of interest of the nonprofit or nongovernmental organization community members.

(2) Members of the board shall include the following:

(A) ~~four~~ five members appointed by the governor:

(i) a person with expertise in rural economic development issues;

(ii) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture;

(iii) a person familiar with the agricultural tourism industry; ~~and~~

(iv) an agricultural lender; and

(v) a person with expertise and professional experience in forest products manufacturing.

(B) ~~four~~ six members appointed by the speaker of the house of representatives:

(i) a person who produces an agricultural commodity other than dairy products;

(ii) a person who creates a value-added product using ingredients substantially produced on Vermont farms;

(iii) a person with expertise in sales and marketing; ~~and~~

(iv) a person representing the feed, seed, fertilizer, or equipment enterprises;

(v) a forester; and

(vi) a sawmill operator.

(C) ~~four~~ five members appointed by the committee on committees of the senate:

(i) a representative of Vermont's dairy industry who is also a dairy farmer;

(ii) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;

(iii) a representative from a Vermont agricultural advocacy organization; ~~and~~

(iv) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture; and

(v) a logger.

(3) The secretary of agriculture, food and markets or his or her designee shall be a nonvoting, ex officio member. The secretary may provide staff support from the agency of agriculture, food and markets as resources permit.

(4) The secretary of commerce and community development or his or her designee shall be a nonvoting, ex officio member.

* * *

Sec. 5. APPROPRIATIONS

(a) The amount of \$1,850,000.00 is appropriated from the general fund to the Vermont working lands enterprise fund established in 6 V.S.A. § 4605 in the amounts and for the purposes as follow:

(1) \$600,000.00 for enterprise grants to entrepreneurs, including grants to leverage private capital, jump-start new businesses, help beginning farmers access land, and support diversification projects that add value to farm and forest commodities. This initial sum is intended to fund an enterprise grant pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(2) \$350,000.00 for wraparound services to growth companies, including technical assistance, business planning, financial packaging, and other services required by companies ready to transition to the next stage of growth. This initial sum is intended to fund a growth company services pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(3) \$900,000.00 for state infrastructure investments, including investment in private and nonprofit sectors for creative diversification projects, value-added manufacturing, processing, storage, distribution, and collaborative ventures. This initial sum is intended to fund an infrastructure investment pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(b) The amount of \$382,400.00 is appropriated from the general fund to the agency of agriculture, food and markets to provide funding for support staff, including a wraparound services advisor and regulatory ombudsman, and for fiscal management and operations costs. The agency shall utilize the funds appropriated to perform its full duties to the Vermont working lands enterprise board.

Sec. 6. EFFECTIVE DATE

(a) This section and Secs. 1, 2, 4, and 5 shall take effect on passage.

(b) Sec. 3 (repeal of agriculture innovation center) shall take effect on March 31, 2013.

and that when so amended the bill ought to pass.

Rep. Johnson of South Hero, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Agriculture and when further amended as follows:

In Sec. 5, in subsection (a), by striking “\$1,850,000.00” and inserting in lieu thereof “\$1,700,000.00” and in subdivision (a)(1), by striking “\$600,000.00” and inserting in lieu thereof “\$550,000.00” and in subdivision (a)(3), by striking “\$900,000.00” and inserting in lieu thereof “\$800,000.00”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Agriculture and Appropriations agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Marek of Newfane** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 131. Nays, 5.

Those who voted in the affirmative are:

Ancel of Calais
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Bartholomew of Hartland
Batchelor of Derby
Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Bouchard of Colchester
Branagan of Georgia
Browning of Arlington
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Canfield of Fair Haven
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Conquest of Newbury *

Consejo of Sheldon
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Courcelle of Rutland City
Crawford of Burke
Dakin of Chester
Davis of Washington
Deen of Westminster
Degree of St. Albans City
Devereux of Mount Holly
Dickinson of St. Albans
Town
Donaghy of Poultney
Donahue of Northfield
Donovan of Burlington
Eckhardt of Chittenden
Edwards of Brattleboro
Ellis of Waterbury
Emmons of Springfield

Evans of Essex
Fagan of Rutland City
Fisher of Lincoln
Frank of Underhill
French of Shrewsbury
French of Randolph
Gilbert of Fairfax
Grad of Moretown
Greshin of Warren
Haas of Rochester *
Head of South Burlington
Heath of Westford
Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Hooper of Montpelier
Howrigan of Fairfield
Jerman of Essex
Jewett of Ripton
Johnson of South Hero

Johnson of Canaan	Martin of Wolcott	Scheuermann of Stowe
Keenan of St. Albans City	Masland of Thetford	Shand of Weathersfield
Kilmartin of Newport City	McCullough of Williston	Shaw of Pittsford
Kitzmiller of Montpelier	McNeil of Rutland Town	Smith of New Haven
Klein of East Montpelier	Miller of Shaftsbury	South of St. Johnsbury
Koch of Barre Town	Mook of Bennington	Spengler of Colchester
Komline of Dorset	Moran of Wardsboro	Stevens of Waterbury
Krebs of South Hero	Mrowicki of Putney	Stevens of Shoreham
Krowinski of Burlington	Munger of South Burlington	Strong of Albany
Kupersmith of South Burlington	Myers of Essex	Stuart of Brattleboro
Lanpher of Vergennes	Nuovo of Middlebury	Sweaney of Windsor
Larocque of Barnet	Olsen of Jamaica	Taylor of Barre City *
Lawrence of Lyndon	O'Sullivan of Burlington	Till of Jericho
Lenes of Shelburne	Partridge of Windham	Townsend of Randolph
Leriche of Hardwick	Pearson of Burlington	Trieber of Rockingham
Lewis of Berlin	Peaslee of Guildhall	Waite-Simpson of Essex
Lewis of Derby	Peltz of Woodbury *	Webb of Shelburne
Lippert of Hinesburg	Perley of Enosburgh	Wilson of Manchester
Macaig of Williston	Poirier of Barre City	Wizowaty of Burlington
Malcolm of Pawlet	Potter of Clarendon	Woodward of Johnson
Manwaring of Wilmington	Pugh of South Burlington	Wright of Burlington
Marcotte of Coventry	Ralston of Middlebury	Yantachka of Charlotte
Marek of Newfane	Ram of Burlington	Young of Glover
Martin of Springfield	Russell of Rutland City *	Zagar of Barnard *
	Savage of Swanton	

Those who voted in the negative are:

Acinapura of Brandon	Hubert of Milton	Turner of Milton
Burditt of West Rutland	Pearce of Richford	

Those members absent with leave of the House and not voting are:

Brennan of Colchester	McAllister of Highgate	Sharpe of Bristol
Clark of Vergennes	McFaun of Barre Town	Toll of Danville
Condon of Colchester	Morrissey of Bennington	Winters of Williamstown
Howard of Cambridge	O'Brien of Richmond	
Lorber of Burlington	Reis of St. Johnsbury	

Rep. Conquest of Newbury explained his vote as follows:

“Mr. Speaker:

I voted ‘yes’ for H.496 because it is an economic development bill, a jobs bill, that just happens to be aimed at the agriculture and forest products sectors. Vermont has the land, the reputation and the people that make the investments envisioned in this bill investments with the greatest potential return to Vermont’s economy.”

Rep. Haas of Rochester explained her vote as follows:

“Mr. Speaker:

When the Rural Economic Development Group began meeting in 2005, we knew that ‘value-added’ was the secret to Vermont’s future. We should make artisan cheese, not simply ship milk out of state. We should make custom furniture, not just ship logs. This bill finally takes a real step to support that vision. I am proud to have the opportunity to vote for it.”

Rep. Peltz of Woodbury explained his vote as follows:

“Mr. Speaker:

From the state seal to views many of us see from our front yards, H.496 will preserve these treasured resources, while strengthening Vermont’s economic future.”

Rep. Russell of Rutland City explained his vote as follows:

“Mr. Speaker:

As a representative of the people of Rutland City, home of Vermont’s largest farmers’ market, I proudly vote ‘yes’ for agriculture and jobs!”

Rep. Taylor of Barre City explained her vote as follows:

“Mr. Speaker:

H.496 is an investment in the future of Vermont’s economy. It creates numerous job opportunities, opportunities for future generations. It helps keep Vermonters working in Vermont. I say ‘yes’ to this bill as it benefits all Vermonters.”

Rep. Zagar of Barnard explained his vote as follows:

“Mr. Speaker:

Vermont’s farms and forests and the people and families that work them are this state’s most valuable assets. By supporting them, we are helping to ensure economic and food security for all Vermonters, building a more resilient and independent Vermont, strengthening community ties, and maintaining and advancing the health and well-being of our families, neighbors and environment.”

Message from the Senate No. 35

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 89. An act relating to Medicaid for Working Persons with Disabilities.

S. 138. An act relating to calculation of criminal sentences and record keeping for search warrants.

S. 179. An act relating to amending perpetual conservation easements.

S. 209. An act relating to naturopathic physicians.

S. 222. An act relating to cost-sharing for employer-sponsored insurance assistance plans.

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

The Senate has considered joint resolution originating in the House of the following title:

J.R.H. 33. Joint resolution authorizing the state of Vermont to accept a reprint of an engraving of Thaddeus Stevens for the state house art collection.

And has adopted the same in concurrence.

Favorable Report; Third Reading Ordered

H. 766

Rep. Head of South Burlington, spoke for the committee on General, Housing and Military Affairs.

Rep. Acinapura of Brandon, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to the national guard

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At three o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at eight o'clock in the forenoon.

Friday, March 30, 2012

At eight o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Alex Kauffman of Addison, VT.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the Speaker recognized the following named Pages who are completing their service today and presented them with commemorative pins:

Page Marta Bartholomew of Hartland
Page Kassandra Bell of Hardwick
Page Alexandra Caron of South Royalton
Page Taylor Chappel of St. Johnsbury
Page Julie Decker of Williston
Page Thomas DeMag of South Burlington
Page Sage Luksevish of Underhill
Page Elysia Manriquez of Barre
Page Audrey Oliver of Montpelier

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 89

Senate bill, entitled

An act relating to Medicaid for Working Persons with Disabilities;
To the committee on Human Services.

S. 138

Senate bill, entitled

An act relating to calculation of criminal sentences and record keeping for search warrants;

To the committee on Judiciary.

S. 179

Senate bill, entitled

An act relating to amending perpetual conservation easements;
To the committee on Natural Resources and Energy.

S. 209

Senate bill, entitled

An act relating to naturopathic physicians;
To the committee on Health Care.

S. 222

Senate bill, entitled

An act relating to cost-sharing for employer-sponsored insurance assistance plans;

To the committee on Health Care.

Third Reading; Bill Passed**H. 766**

House bill, entitled

An act relating to the national guard

Was taken up, read the third time and passed.

Bill Amended, Read Third Time and Passed**H. 496**

House bill, entitled

An act relating to preserving Vermont's working landscape

Was taken up and pending third reading of the bill, **Reps. Botzow of Pownal, Lawrence of Lyndon, Marcotte of Coventry and Partridge of Windham** moved to amend the bill as follows:

In Sec. 4, 6 V.S.A. § 2966, in subdivision (a)(2), by striking the "and" at the end of subdivision (C), by striking the period at the end of subdivision (D) and inserting in lieu thereof a semicolon, and by adding a subdivision (E) to read:

(E) prepare a comprehensive report, in consultation with the agency of agriculture, food and markets, indicating the progress made by the working lands enterprise board with regard to all activities authorized by this section. The report shall be presented to the senate and house committees on agriculture, the senate committee on economic development, housing and general affairs, and the house committee on commerce and economic development on or before January 15, 2013.

Which was agreed to. Thereupon, the bill was read the third time and passed.

Adjournment

At eight o'clock and forty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, April 3, 2012, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 53.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 319

House concurrent resolution congratulating the University of Vermont 2012 NCAA championship skiing team;

H.C.R. 320

House concurrent resolution in memory of former Representative Gloria Ann Conant of Richmond;

H.C.R. 321

House concurrent resolution congratulating Julie Frost on winning the 2012 Golden Globe Award for Best Original song;

H.C.R. 322

House concurrent resolution congratulating the 2012 South Burlington High School Rebels championship girls' indoor track and field team;

H.C.R. 323

House concurrent resolution honoring the St. Albans Town municipal public works department employees for their exemplary public service during the spring 2011 Lake Champlain flooding;

H.C.R. 324

House concurrent resolution congratulating Silas Chickering-Ayers of East Montpelier on winning his first Freeskiing World Tour victory at the North American Championships at Snowbird's Northwest Baldy in Utah;

H.C.R. 325

House concurrent resolution in memory of Melinda Bussino;

H.C.R. 326

House concurrent resolution congratulating the 2011–2012 Middlebury College skiing team on its outstanding season;

H.C.R. 327

House concurrent resolution congratulating the 2012 University of Vermont America East championship men's basketball team;

(Due to a numbering error, this page is blank. There is no missing text.)

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, April 3, 2012

Rep. Leriche of Hardwick in Chair.

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Piper, Ben Partridge of Windham, VT.

Pledge of Allegiance

Page Abigail Zani of West Brookfield, led the House in the Pledge of Allegiance.

Message from the Senate No. 36

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 151. An act relating to grave markers.

S. 183. An act relating to the testing of potable water supplies.

S. 200. An act relating to the reporting requirements of health insurers.

S. 223. An act relating to health insurance coverage for early childhood development disorders, including autism spectrum disorders.

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

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 52. Joint resolution relating to the issuance of a commemorative United States postage stamp in honor of former United States Senator George D. Aiken.

In the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 41. Senate concurrent resolution honoring Richard Strong for his more than half-century of municipal public service in the village of Ludlow.

S.C.R. 42. Senate concurrent resolution congratulating Lyndon Rescue, Inc. on its 40th anniversary.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 319. House concurrent resolution congratulating the University of Vermont 2012 NCAA championship skiing team.

H.C.R. 320. House concurrent resolution in memory of former Representative Gloria Ann Conant of Richmond.

H.C.R. 321. House concurrent resolution congratulating Julie Frost on winning the 2012 Golden Globe Award for Best Original song.

H.C.R. 322. House concurrent resolution congratulating the 2012 South Burlington High School Rebels championship girls' indoor track and field team.

H.C.R. 323. House concurrent resolution honoring the St. Albans Town municipal public works department employees for their exemplary public service during the spring 2011 Lake Champlain flooding.

H.C.R. 324. House concurrent resolution congratulating Silas Chickering-Ayers of East Montpelier on winning his first Freeskiing World Tour victory at the North American Championships at Snowbird's Northwest Baldy in Utah.

H.C.R. 325. House concurrent resolution in memory of Melinda Bussino.

H.C.R. 326. House concurrent resolution congratulating the 2011–2012 Middlebury College skiing team on its outstanding season.

H.C.R. 327. House concurrent resolution congratulating the 2012 University of Vermont America East championship men's basketball team.

House Bill Introduced

H. 788

By Rep. O'Brien of Richmond,

House bill, entitled

An act relating to approval of amendments to the charter of the town of Richmond;

To the committee on Government Operations.

Committee Bill Introduced**H. 789**

Rep. Sweaney of Windsor, for the committee on Government Operations, introduced a bill, entitled

An act relating to reapportioning the final representative districts of the House of Representatives

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 151

Senate bill, entitled

An act relating to grave markers;

To the committee on General, Housing and Military Affairs.

S. 183

Senate bill, entitled

An act relating to the testing of potable water supplies;

To the committee on Fish, Wildlife & Water Resources.

S. 200

Senate bill, entitled

An act relating to the reporting requirements of health insurers;

To the committee on Health Care.

S. 223

Senate bill, entitled

An act relating to health insurance coverage for early childhood development disorders, including autism spectrum disorders;

To the committee on Health Care.

Joint Resolution Placed on Calendar**J.R.S. 52**

By Senators McCormack, Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi,

Kitchel, Kittell, Lyons, MacDonald, Mazza, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman and White,

J.R.S. 52. Joint resolution relating to the issuance of a commemorative United States postage stamp in honor of former United States Senator George D. Aiken.

Whereas, George D. Aiken served his state and nation as a distinguished public servant with honor and humility for over four decades, and

Whereas, he began his elected career in the Vermont House of Representatives and rose to the positions of House Speaker, Lieutenant Governor, and then Governor of Vermont, and ultimately from 1941 to 1975 served as United States Senator from the State of Vermont, and

Whereas, United States Senator George D. Aiken served Vermont and the nation well with his support of such measures as the St. Lawrence Seaway, Aid for Women, Infants, and Children, Rural Electrification, the 1964 Civil Rights Act, and other legislation which improved our lives and our country, and

Whereas, his independence and candor as a United States Senator, exemplified by his early and politically courageous criticism of public policies during both the McCarthy era and the Vietnam War, won him respect and admiration from Americans across the political spectrum, and

Whereas, George D. Aiken was a pioneering environmentalist through his numerous botanical contributions to Vermont, and

Whereas, his love for Vermont was best demonstrated by his lifelong devotion to his native Putney, and

Whereas, a man of truth and simplicity, George D. Aiken represented the best qualities of Vermont, and

Whereas, he dedicated his life to the betterment of Vermont, and

Whereas, George D. Aiken strove to elevate American public life and policy to a height that would merit dignity and respect both at home and abroad, and

Whereas, when Vermonters tackle the issues of today, his commonsense approach to problems and wise counsel are sorely missed, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly respectfully requests that the Vermont Congressional Delegation make every possible effort to secure the issuance of a United States postage stamp in honor of the life and accomplishments of former United States Senator George D. Aiken, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the United States Postal Service's Citizens Stamp Advisory Committee in Washington, D.C. and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Message from the Senate No. 37

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 634. An act relating to remedies for failure to pay municipal tickets.

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

The Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 54. Joint resolution approving a land exchange in Alburgh and a lease with Camp Downer, Inc.

J.R.S. 55. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Adjournment

At ten o'clock and forty minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, April 4, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. M'ellen Kennedy, of the Universalist Churches in Barre, Strafford and Washington, VT.

Joint Resolution Referred to Committee

J.R.S. 54

By Committee on Institutions,

J.R.S. 54. Joint resolution approving a land exchange in Alburgh and a lease with Camp Downer, Inc.

Whereas, in accordance with 10 V.S.A. § 2606(b), the general assembly may adopt a resolution authorizing the commissioner of forests, parks and recreation to exchange or lease certain lands that are under the jurisdiction of the commissioner, and

Whereas, the general assembly has reviewed the proposed transactions and considers them to be in the best interest of the state, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes the commissioner of forests, parks and recreation to:

First: Enter into an exchange of a portion of Alburgh Dunes State Park in the Town of Alburgh with the South Alburgh Cemetery Association, Inc. for up to 44 +/- acres to be added to Alburgh Dunes State Park in the town of Alburgh that is of equivalent or greater value to the state. Any exchange of state parkland with the South Alburgh Cemetery Association, Inc. shall be contingent on the following: (1) the land exchange shall have the support of the selectboard of the town of Alburgh; (2) an independent appraiser shall determine the value of the parcels for exchange; (3) the South Alburgh Cemetery Association, Inc. shall be responsible for any and all associated costs of the exchange, including appraisal, survey, permitting, and legal costs; (4) the parcel conveyed to the state in exchange for the state park parcel conveyed to the South Alburgh Cemetery Association, Inc. shall be placed under the control and jurisdiction of the department of forests, parks and recreation; (5) the coholders of the conservation easement that encumbers Alburgh Dunes State Park (The Nature Conservancy and the Vermont Housing and Conservation Board) shall approve the land exchange, and the conservation easement shall be amended to reflect this land exchange.

Second: Amend the lease with Camp Downer, Inc. at Downer State Forest in Sharon to provide for two additional ten-year renewal periods.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the Committee on Corrections and Institutions.

Joint Resolution Adopted in Concurrence

J.R.S. 55

By Senators Carris and Mullin,

J.R.S. 55. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday April 5, 2012, or, Friday, April 6, 2012, it be to meet again no later than Tuesday, April 10, 2012.

Was taken up read and adopted in concurrence.

House Resolution Adopted

H.R. 17

House resolution, entitled

House resolution congratulating the Republic of China (Taiwan), President Ma Ying-jeou, and the 23 million Taiwanese people on their successful 2012 democratic elections and urging support for Taiwan's participation in various international organizations

Offered by: Representatives Leriche of Hardwick and Marcotte of Coventry

Whereas, on January 14, 2012, the Republic of China (Taiwan) held a successful democratically conducted election for president, vice president, and the legislature, demonstrating it is a beacon for freedom and democracy, and

Whereas, recently re-elected President Ma Ying-jeou has worked tirelessly to uphold democratic principles in Taiwan, ensure the prosperity of the Taiwanese people, promote its standing as a responsible member of the international community, increase participation in international organizations, dispatch humanitarian missions abroad, and further improve relations between the United States and Taiwan, and

Whereas, the United States and the Republic of China (Taiwan), and especially the State of Vermont, share an historically close relationship, marked by strong bilateral trade, educational and cultural exchanges, scientific and technological interests, and tourism, and

Whereas, in December 2011, Taiwan was nominated to participate in the United States Visa Waiver Program, and

Whereas, the United States ranks as Taiwan's third largest trading partner and Taiwan is the 10th largest trading partner of the United States, and bilateral trade reached \$62 billion with exports to Taiwan totaling approximately \$25 billion in 2011, and Vermont's exports to Taiwan totaled \$154 million in 2010, and

Whereas, on November 12, 2011, President Barack Obama and the leaders of eight Trans-Pacific Partnership countries announced the achievement of the broad outlines for a 21st century Trans-Pacific Partnership agreement which will forge close links among economies, enhance competitiveness, and benefit consumers, and

Whereas, the Asia-Pacific region is the largest market in the world for U.S. exports, and \$3.9 billion, or 93 percent, of Vermont's total exports went to markets in that region, and

Whereas, exports to Taiwan are estimated to support 12,300 Vermont jobs, and the latest available data (2009) indicated that 898 companies exported goods from Vermont, and

Whereas, Taiwan is the world's seventeenth largest trading economy and a member of the Asia-Pacific Economic Cooperation Forum, and

Whereas, the United Nations Framework Convention on Climate Change is the leading international agency addressing climate change, and Taiwan desires and should be granted membership in this important organization, and

Whereas, it remains in the interest of the traveling public that Taiwan be included in the International Civil Aviation Organization since Taiwan is a key transport hub in the Asia-Pacific region, and the Taipei Flight Information Region which is under Taiwan's jurisdiction covers an area of 176,000 square nautical miles with 1.35 million controlled flights annually passing through, now therefore be it

Resolved by the House of Representatives:

That this legislative body congratulates the Republic of China (Taiwan), President Ma Ying-jeou, and the 23 million Taiwanese people on their successful 2012 democratic elections and urges support for Taiwan's participation in various international organizations and agreements, including the Trans-Pacific Partnership, the United Nations Framework Convention on Climate Change, and the International Civil Aviation Organization, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to President Barack Obama, Governor Peter Shumlin, the Vermont Congressional Delegation, Taiwanese President Ma Ying-jeou, and Anne Hung, Director-General of the Taipei Economic and Cultural Office in Boston.

Which was read and adopted.

Bill Amended; Third Reading Ordered

H. 506

Rep. Smith of New Haven, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to vinous beverages

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(6) “Caterer’s ~~permit~~ license”: a ~~permit~~ license issued by the liquor control board authorizing the holder of a first class license or first and third class licenses for a cabaret, restaurant, or hotel premises to serve malt or vinous beverages or spirituous liquors at a function located on premises other than those occupied by a first, first and third, or second class licensee to sell alcoholic beverages.

* * *

(7) “Club”: an unincorporated association or a corporation authorized to do business in this state, that has been in existence for at least two consecutive years prior to the date of application for license under this title and owns, hires, or leases a building or space in a building that is suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and contains suitable and adequate kitchen and dining room space and equipment implements and facilities. A club may be used or leased by a nonmember as a location for a social event as if it were any other licensed commercial establishment. Such club shall file with the liquor control board, before May 1 of each year, a list of the names and residences of its members and a list of its officers. Its affairs and management shall be conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting, and no member or any officer, agent, or employee of the club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquors to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at annual meetings by the members or by its directors or other governing body, and as reported by the club to the liquor control board. An auxiliary member of a club may invite one guest at any one time. An officer or director of a club may perform the duties of a bartender without receiving any payment for that service, provided the officer or director is in compliance with the requirements of this title that relate to service of alcoholic beverages. An officer, member, or director of a club may volunteer to perform services at the club other than serving alcoholic beverages, including seating patrons and checking identification, without receiving payment for those services. An officer, member, or director of a club who volunteers his or her services shall not be considered to be an employee of the club. A bona fide unincorporated

association or corporation whose officers and members consist solely of veterans of the armed forces of the United States, or a subordinate lodge or local chapter of any national fraternal order, and which fulfills all requirements of this subdivision, except that it has not been in existence for two years, shall come within the terms of this definition six months after the completion of its organization. A club located on and integrally associated with at least a regulation nine-hole golf course need only be in existence for six months prior to the date of application for license under this title.

* * *

(28) “Fourth class license” or “farmers’ market license”: the license granted by the liquor control board permitting a manufacturer or rectifier of malt or vinous beverages or spirits to sell by the unopened container and distribute, by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth class and farmers’ market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth class license location, a manufacturer or rectifier of vinous beverages may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages produced by no more than ~~three~~ five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier of vinous beverages may sell its product to no more than ~~three~~ five additional manufacturers or rectifiers. A fourth class licensee may distribute by the glass no more than two ounces of malt or vinous beverage with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits with a total of one ounce to each retail customer for consumption on the manufacturer’s premises or at a farmers’ market. A farmers’ market license is valid for all dates of operation for a specific farmers’ market location.

* * *

(33) “Commercial catering license”: A license granted by the board permitting a business licensed by the department of health as a commercial caterer and having a commercial kitchen facility in the home or place of business to sell malt, vinous, or spirituous liquors at a function previously approved by the local licensing authority.

Sec. 2. 7 V.S.A. § 66 is amended to read:

§ 66. VINOUS BEVERAGE SHIPPING LICENSE; IN STATE; OUT OF STATE; PROHIBITIONS; PENALTIES

* * *

(c) A manufacturer or rectifier of vinous beverages that is licensed in-state or out-of-state and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the department of liquor control an application in a form required by the department accompanied by a copy of their in-state or out of state license and the fee as required by subdivision 231(7)(C) of this title. The retail shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(C) of this title accompanied by the licensee's current in-state or out-of-state manufacturer's license. This license permits the holder, which includes the holder's affiliates, franchises, and subsidiaries, to sell up to ~~2,000~~ 5,000 gallons of vinous beverages a year directly to first or second class licensees and deliver the beverages by common carrier or the manufacturer's or rectifier's own vehicles or the vehicle of an employee of a manufacturer or rectifier, provided that the beverages are sold on invoice, and no more than ~~40~~ 100 gallons per month are sold to any single first or second class licensee. The retail shipping license holder shall ~~provide~~ report to the department documentation of the annual and monthly number of gallons sold.

* * *

(e) A holder of any shipping license granted pursuant to this section shall:

* * *

(4) Report at least twice a year to the department of liquor control if the holder of a direct consumer shipping license and once a year if the holder of a retail shipping license in a manner and form required by the department all the following information:

(A) The total amount of vinous beverages shipped into or within the state for the preceding six months if a holder of a direct consumer shipping license or every twelve months if a holder of a retail shipping license.

(B) The names and addresses of the purchasers to whom the vinous beverages were shipped.

(C) The date purchased, if appropriate, the name of the common carrier used to make each delivery, and the quantity and value of each shipment.

* * *

Sec. 3. 7 V.S.A. § 67 is amended to read:

§ 67. ALCOHOLIC BEVERAGE TASTINGS; PERMIT; PENALTIES

* * *

(b) A wine or beer tasting event held pursuant to subdivisions (a)(1) and (2) of this section, not including an alcohol beverage tasting conducted on the premises of the manufacturer or rectifier, shall comply with the following:

(1) Continue for no more than six hours, with no more than six beverages to be offered at a single event, and no more than two ounces of any single beverage and no more than a total of eight ounces of various vinous or malt beverages to be dispensed to a customer. No more than eight customers may be served at one time.

(2) Be conducted totally within ~~an area that is clearly cordoned off by barriers that extend~~ a designated area that extends no further than 10 feet from the point of service, and ~~a~~ that is marked by a clearly visible sign that ~~clearly~~ states that no one under the age of 21 may participate in the tasting ~~shall be placed in a visible location at the entrance to the tasting area.~~

* * *

Sec. 4. 7 V.S.A. § 238 is amended to read:

§ 238. CATERER'S ~~PERMIT~~ LICENSE, GRANTING OF; SALE TO MINORS

(a) The liquor control board may issue a caterer's ~~permit~~ license only to those persons who hold a current first ~~and third~~ class license or current first and third class licenses for a restaurant or hotel premises.

(b) The board may issue a commercial catering license only to those persons who hold a first class license or current first and third class licenses.

(c) The liquor control board shall promulgate rules or regulations as it deems necessary to effectuate the purposes of this section.

~~(e)(d)~~ No malt or vinous beverages or spirituous liquors shall be sold or served to a minor by a holder of a caterer's ~~permit~~ license.

~~(d)(e)~~ Notwithstanding the provisions of subsection (a) of this section, the liquor control board may issue a caterer's ~~permit~~ license to a licensed manufacturer or rectifier who holds a current first class license.

Sec. 5. 7 V.S.A. § 238a is amended to read:

§ 238a. OUTSIDE CONSUMPTION PERMITS; GOLF COURSES;

~~WINERIES~~

Pursuant to regulations of the liquor control board, an outside consumption permit may be granted to the holder of a first or first and third class ~~license~~ licenses for all or part of the outside premises of a golf course or to the holder of a fourth class license for all or part of the outside premises ~~of a winery for~~

~~consumption of wine produced on the premises~~, provided that such permit is first obtained from the local control commissioners and approved by the board.

Sec. 6. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(8)(A) For a caterer's ~~permit~~ license, \$200.00.

(B) For a commercial catering license, \$200.00.

* * *

Rep. Condon of Colchester, for the committee on Ways and Means, recommended that the bill ought to pass when amended, as recommended, by the committee on General, Housing and Military Affairs.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on General, Housing and Military Affairs and Ways and Means agreed to and third reading ordered.

Joint Resolution Adopted in Concurrence

J.R.S. 52

Joint resolution, entitled

Joint resolution relating to the issuance of a commemorative United States postage stamp in honor of former United States Senator George D. Aiken

Was taken up and adopted in concurrence.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra MacLean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the third day of April, 2012, he approved and signed a bill originating in the House of the following title:

H. 512 An act relating to banking, insurance, securities, and health care administration

Adjournment

At one o'clock and forty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, April 5, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by singers from Zack's Place in Woodstock, VT.

Message from the Senate No. 38

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 449. An act relating to the designation of brook trout and walleye pike as the state fish of Vermont.

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

House Bill Introduced**H. 790**

By Reps. Christie of Hartford, Bohi of Hartford and Zagar of Barnard,

House bill, entitled

An act relating to approval of amendments to the charter of the town of Hartford;

To the committee on Government Operations.

House Committee Bill Introduced**H. 791**

By the committee on Ways and Means,

An act relating to tax expenditures for nonprofits, charitable organizations, and miscellaneous tax expenditures, as presented in the tax expenditure budget for 2012;

Under the rule, placed on the Calendar for notice.

Bills Referred to Committee on Appropriations

Bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

H. 762

House bill, entitled

An act relating to workers' compensation and unemployment compensation.

S. 199

Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program;

Third Reading; Bill Passed**H. 506**

House bill, entitled

An act relating to vinous beverages

Was taken up, read the third time and passed.

Bill Read Second Time, Amended and Third Reading Ordered**H. 789**

Rep. Atkins of Winooski spoke for the committee on Government Operations.

House bill entitled

An act relating to reapportioning the final representative districts of the House of Representatives

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Hubert of Milton** moved to amend the bill as follows:

First: In Sec. 2, 17 V.S.A. § 1893a, in subdivision (b)(1) (district CHITTENDEN-6-1), after “then northwesterly along the southern side of the centerline of VT 127 to the intersection of the” by striking out “right-of-way of the Winooski Valley Park Way; then northerly in a straight line to the Winooski River and the boundary of the town of Colchester” and inserting in

lieu thereof “boundary of the town of Colchester at the Heineberg Bridge over the Winooski River”

Second: In Sec. 2, 17 V.S.A. § 1893a, by striking subdivision (b)(4) (district CHITTENDEN-6-4) in its entirety and inserting in lieu thereof the following:

(4) CHITTENDEN-6-4. That portion of the city of Burlington encompassed within a boundary beginning at the point of the intersection of North Street and North Union Street; then southerly along the eastern side of the centerline of North Union Street to the intersection of Pearl Street; then easterly along the northern side of the centerline of Pearl Street to the intersection of South Prospect Street; then southerly along the eastern side of the centerline of South Prospect Street to the intersection of Main Street; then easterly along the northern side of the centerline of Main Street to the northeastern boundary of 461 Main Street; then southeasterly along the eastern side of the boundary of 461 Main Street and 475 Main Street, including the property at 475, 479, and 481 Main Street and excluding the property at 461 Main Street and continuing in a straight line to the southwestern corner of the property located at 475 Main Street, including that property; then continuing on to and along the eastern side of the boundary between property located on Robinson Parkway and property located on University Terrace, including the University Terrace properties, to the intersection with University Heights Road; then continuing southerly from the intersection with University Heights Road on the eastern side of the boundary between properties within University Heights and those properties on South Prospect Street and on Henderson Terrace to the intersection of a road running along the southern side of the Gucciardi Recreation and Fitness Center and the Gutterson Fieldhouse and Davis Road; then easterly along the northern side of the centerline of the road on the southern boundary of the center and fieldhouse to the boundary of the city of South Burlington; then northerly and easterly along the South Burlington city line to the intersection with Grove Street, including the residences on the inside and southern side of the circle at 284 Grove Street, also known as Apple Grove, but excluding the residences on the outside and northern side of the circle at 284 Grove Street; then westerly along the southern side and northerly along the western side of the centerline of Grove Street to the intersection of Chase Street; then westerly and southwesterly along the southern side of the centerline of Chase Street to the intersection of Colchester Avenue; then northerly along the western side of the centerline of Colchester Avenue to the intersection of Riverside Avenue; then southerly along the eastern side and westerly along the southern side of the centerline of Riverside Avenue to the intersection of Intervale Road; then northwesterly

along the western side of the centerline of Intervale Road to the intersection with the railroad tracks; then westerly along the southern side of the centerline of the railroad tracks to a point representing the intersection of the centerline of the railroad tracks and a straight line extension of the centerline of Hyde Street; then southwestly along the eastern side of the centerline of that line extension and then Hyde Street to the intersection of North Willard Street; then southerly along the eastern side of the centerline of North Willard Street to the intersection of North Street; then westerly along the southern side of the centerline of North Street to the point of beginning 2

Third: In Sec. 2, 17 V.S.A. § 1893a, by striking subdivision (b)(6) (district CHITTENDEN-6-6) in its entirety and inserting in lieu thereof the following:

(6) CHITTENDEN-6-6. That portion of the city of Burlington encompassed within a boundary beginning at the point of the intersection of Pearl Street and North Union Street; then easterly along the southern side of the centerline of Pearl Street to the intersection of South Prospect Street; then southerly along the western side of the centerline of South Prospect Street to the intersection of Main Street; then easterly along the southern side of the centerline of Main Street to the northeastern boundary of 461 Main Street; then southeasterly along the western side of the boundary of 461 Main Street and 475 Main Street, excluding the property at 475, 479, and 481 Main Street and including the property at 461 Main Street and continuing in a straight line to the southwestern corner of the property located at 475 Main Street, excluding that property; then continuing on to and along the western side of the boundary between property located on Robinson Parkway and property located on University Terrace, including the Robinson Parkway properties, to the intersection with University Heights Road; then continuing southerly from the intersection with University Heights Road on the western side of the boundary between properties within University Heights and those properties on South Prospect Street and on Henderson Terrace to the intersection of a road running along the southern side of the Gucciardi Recreation and Fitness Center and the Gutterson Fieldhouse and Davis Road; then westerly along the northern side of the centerline of Davis Road to the intersection of South Prospect Street; then northerly along the eastern side of the centerline of South Prospect Street to the intersection of Cliff Street; then westerly along the northern side of the centerline of Cliff Street to the intersection of South Willard Street; then northerly along the eastern side of the centerline of South Willard Street to the intersection of Main Street; then westerly along the northern side of the centerline of Main Street to the intersection of South Union Street; then northerly along South Union Street to the intersection of Pearl Street; then

continuing northerly along the eastern side of the centerline of North Union Street to the point of beginning

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Reps. Browning of Arlington and Malcolm of Pawlet** moved to amend the bill as follows:

First: In Sec. 1, before ~~BENNINGTON-3~~, by inserting the following:

BENNINGTON-2-1 That portion of the town of Bennington
not included in BENNINGTON-2-2 or BENNINGTON
3-1 2

* * *

Second: In Sec. 1, by striking districts BENNINGTON-3-1 and BENNINGTON-3-2 in their entirety and inserting in lieu thereof the following:

BENNINGTON-3-1 Glastenbury, Shaftsbury, and that portion of the town of Bennington encompassed within a boundary beginning at the point where the boundary line of Bennington and Shaftsbury intersects with VT Route 7A; then southerly along the eastern side of the centerline of VT 7A to the intersection of the on- and off-ramps of VT Route 7; then easterly along then northern side of the centerline of the on- and off-ramps to the intersection of VT 7; then southerly along the eastern side of the centerline of VT 7 to the intersection with a point representing a straight line extension of the western end of Squaw Hill; then easterly from that point and then along the northern side of the centerline of Squaw Hill to the intersection of Houghton Lane; then easterly along the northern side of the centerline of Houghton Lane to the intersection of East Road; then northerly along the western side of the centerline of East Road to the boundary of Shaftsbury; then westerly along the Shaftsbury town line to the point of beginning 1

BENNINGTON-3-2 Arlington, Sandgate, Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the centerline of VT 153 to the intersection of East Street;

then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road; then easterly along the southern side and southerly along the western side of the centerline of Kent Hollow Road to the boundary of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning 1

Third: In Sec. 1, by striking districts RUTLAND-BENNINGTON and RUTLAND-1 in their entirety and inserting in lieu thereof the following:

RUTLAND- BENNINGTON

Middletown Springs, Pawlet, Tinmouth, that portion of the town of Wells not in RUTLAND-1, and that portion of the town of Rupert not in ~~BENNINGTON-3~~
BENNINGTON-3-2 1

RUTLAND-1

Ira, Poultney, and that portion of the town of Wells encompassed within a boundary beginning at the point where the boundary line of Wells and Poultney intersects with West Lake Road; then southerly along the eastern and Lake St. Catherine side of the centerline of West Lake Road to the intersection of VT Route 30; then northerly along the western and Lake St. Catherine side of the centerline of VT 30 to the boundary of Poultney; then westerly along the Poultney town line to the point of beginning

Pending the question, Shall the bill be amended as recommended by Rep. Browning of Arlington and Rep. Malcolm of Pawlet? **Rep. Browning of Arlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by Rep. Browning of Arlington and Rep. Malcolm of Pawlet? was decided in the negative. Yeas, 41. Nays, 93.

Those who voted in the affirmative are:

Acinapura of Brandon
Batchelor of Derby
Bohi of Hartford
Bouchard of Colchester
Browning of Arlington
Burditt of West Rutland
Burke of Brattleboro
Canfield of Fair Haven

Conquest of Newbury
Courcelle of Rutland City
Crawford of Burke
Davis of Washington
Devereux of Mount Holly
Eckhardt of Chittenden
Fagan of Rutland City
Gilbert of Fairfax

Hebert of Vernon
Koch of Barre Town
Krebs of South Hero
Larocque of Barnet
Lawrence of Lyndon
Lewis of Derby
Malcolm of Pawlet
McAllister of Highgate

Myers of Essex
O'Brien of Richmond
Pearson of Burlington
Poirier of Barre City
Potter of Clarendon
Reis of St. Johnsbury

Shaw of Pittsford
Smith of New Haven
South of St. Johnsbury
Spengler of Colchester
Strong of Albany
Taylor of Barre City

Till of Jericho
Waite-Simpson of Essex
Winters of Williamstown
Young of Glover
Zagar of Barnard

Those who voted in the negative are:

Ancel of Calais
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Bartholomew of Hartland
Bissonnette of Winooski
Botzow of Pownal
Branagan of Georgia
Brennan of Colchester
Buxton of Tunbridge
Campion of Bennington
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Condon of Colchester
Consejo of Sheldon
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Dakin of Chester
Deen of Westminster
Degree of St. Albans City
Dickinson of St. Albans
Town
Donaghy of Poultney
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Fisher of Lincoln
Frank of Underhill
French of Shrewsbury
French of Randolph

Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington
Heath of Westford
Helm of Fair Haven
Higley of Lowell
Hooper of Montpelier
Howrigan of Fairfield
Hubert of Milton
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Johnson of Canaan
Keenan of St. Albans City
Kilmartin of Newport City
Kitzmiller of Montpelier
Klein of East Montpelier
Krowinski of Burlington
Lanpher of Vergennes
Lenes of Shelburne
Lippert of Hinesburg
Lorber of Burlington
Macaig of Williston
Manwaring of Wilmington
Marcotte of Coventry
Marek of Newfane
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCullough of Williston
McFaun of Barre Town

Miller of Shaftsbury
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
Munger of South Burlington
Nuovo of Middlebury
Olsen of Jamaica
O'Sullivan of Burlington
Partridge of Windham
Pearce of Richford
Peaslee of Guildhall
Perley of Enosburgh
Pugh of South Burlington
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Savage of Swanton
Scheuermann of Stowe
Shand of Weathersfield
Stevens of Waterbury
Stuart of Brattleboro
Sweeney of Windsor
Toll of Danville
Townsend of Randolph
Trieber of Rockingham
Turner of Milton
Webb of Shelburne
Wilson of Manchester
Wizowaty of Burlington
Wright of Burlington
Yantachka of Charlotte

Those members absent with leave of the House and not voting are:

Clark of Vergennes
Donahue of Northfield
Edwards of Brattleboro
Evans of Essex
Howard of Cambridge
Komline of Dorset

Kupersmith of South
Burlington
Leriche of Hardwick
Lewis of Berlin
McNeil of Rutland Town
Morrissey of Bennington

Peltz of Woodbury
Sharpe of Bristol
Stevens of Shoreham
Woodward of Johnson

Pending the question, Shall the bill be read a third time? **Rep. Hubert of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 123. Nays, 9.

Those who voted in the affirmative are:

Acinapura of Brandon	Grad of Moretown	Nuovo of Middlebury
Ancel of Calais	Greshin of Warren	O'Brien of Richmond
Andrews of Rutland City	Haas of Rochester	Olsen of Jamaica
Atkins of Winooski	Head of South Burlington	Partridge of Windham
Bartholomew of Hartland	Heath of Westford	Pearce of Richford
Batchelor of Derby	Hebert of Vernon	Pearson of Burlington
Bissonnette of Winooski	Helm of Fair Haven	Peaslee of Guildhall
Bohi of Hartford	Higley of Lowell	Peltz of Woodbury
Botzow of Pownal	Hooper of Montpelier	Perley of Enosburgh
Bouchard of Colchester	Howrigan of Fairfield	Poirier of Barre City
Branagan of Georgia	Hubert of Milton	Potter of Clarendon
Brennan of Colchester	Jerman of Essex	Ralston of Middlebury
Burditt of West Rutland	Jewett of Ripton	Reis of St. Johnsbury
Burke of Brattleboro	Johnson of South Hero	Russell of Rutland City
Campion of Bennington	Johnson of Canaan	Savage of Swanton
Canfield of Fair Haven	Keenan of St. Albans City	Scheuermann of Stowe
Cheney of Norwich	Kilmartin of Newport City	Shand of Weathersfield
Christie of Hartford	Kitzmiller of Montpelier	Shaw of Pittsford
Clarkson of Woodstock	Klein of East Montpelier	Smith of New Haven
Condon of Colchester	Koch of Barre Town	South of St. Johnsbury
Conquest of Newbury	Krebs of South Hero	Spengler of Colchester
Consejo of Sheldon	Lanpher of Vergennes	Stevens of Waterbury
Corcoran of Bennington	Larocque of Barnet	Stevens of Shoreham
Courcelle of Rutland City	Lawrence of Lyndon	Strong of Albany
Crawford of Burke	Lenes of Shelburne	Stuart of Brattleboro
Dakin of Chester	Lewis of Derby	Sweaney of Windsor
Davis of Washington	Lippert of Hinesburg	Taylor of Barre City
Deen of Westminster	Macaig of Williston	Till of Jericho
Degree of St. Albans City	Manwaring of Wilmington	Toll of Danville
Devereux of Mount Holly	Marcotte of Coventry	Townsend of Randolph
Dickinson of St. Albans Town	Marek of Newfane	Trieber of Rockingham
Donaghy of Poultney	Martin of Springfield	Turner of Milton
Eckhardt of Chittenden	Martin of Wolcott	Waite-Simpson of Essex
Ellis of Waterbury	Masland of Thetford	Webb of Shelburne
Emmons of Springfield	McAllister of Highgate	Wilson of Manchester
Fagan of Rutland City	McCullough of Williston	Winters of Williamstown
Fisher of Lincoln	McFaun of Barre Town	Wizowaty of Burlington
Frank of Underhill	Miller of Shaftsbury	Wright of Burlington
French of Shrewsbury	Mook of Bennington	Yantachka of Charlotte
French of Randolph	Moran of Wardsboro	Young of Glover
Gilbert of Fairfax	Munger of South Burlington	
	Myers of Essex	

Those who voted in the negative are:

Aswad of Burlington	Lorber of Burlington	O'Sullivan of Burlington
Buxton of Tunbridge	Malcolm of Pawlet	Ram of Burlington
Krowinski of Burlington	Mrowicki of Putney	Zagar of Barnard

Those members absent with leave of the House and not voting are:

Browning of Arlington	Evans of Essex	McNeil of Rutland Town
Clark of Vergennes	Howard of Cambridge	Morrissey of Bennington
Copeland-Hanzas of	Komline of Dorset	Pugh of South Burlington
Bradford	Kupersmith of South	Sharpe of Bristol
Donahue of Northfield	Burlington	Woodward of Johnson
Donovan of Burlington	Leriche of Hardwick	
Edwards of Brattleboro	Lewis of Berlin	

Rep. Consejo of Sheldon explained his vote as follows:

“Mr. Speaker:

It was indeed a great experience to be part of this process. An experience I will never forget, thanks to the members of my committee and the great leadership of my chair.”

Rep. Pearson of Burlington explained his vote as follows:

“Mr. Speaker:

This bill serves as a model of redistricting for the country. Members of all parties find areas to support and areas of disagreement. But local input was valued and neighborhoods respected if at all possible. I am proud to be part of today’s vote and of the whole process.”

Proposal of Amendment Agreed to; Third Reading Ordered

S. 181

Rep. Perley of Enosburgh, for the committee on Education, to which had been referred Senate bill, entitled

An act relating to school resource officers

Reported in favor of its passage in concurrence with proposal of amendment as follows:

In Sec. 1, 16 V.S.A. § 1167, by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) A school board or its designee may enter into a memorandum of understanding with a law enforcement agency to define the nature and scope of assistance that a school resource officer will provide to the school system.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

S. 122

Rep. Waite-Simpson of Essex, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to human trafficking and prostitution;

Reported in favor of its passage in concurrence. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Action Postponed

H. 634

The Senate proposed to the House to amend House bill, entitled

An act relating to remedies for failure to pay municipal tickets;

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

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on July 1, 2012.

(b) Sec. 2 of this act and this section shall take effect on passage.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Reis of St. Johnsbury** moved to postpone action for one legislative day, which was agreed to.

Message from the Senate No. 39

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 39. An act relating to persons authorized to direct disposition of service members' remains.

H. 378. An act relating to town payments of county taxes.

And has passed the same in concurrence.

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

H. 503. An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers.

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

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra MacLean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the fourth day of April, 2012, he approved and signed a bill originating in the House of the following title:

H. 630 An act relating to reforming Vermont's mental health system

Adjournment

At two o'clock and thirty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, April 6, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Emily Heath of the United Church of Christ, Dover, VT.

Message from the Senate No. 40

A message was received from the Senate by Mr. Bloomer, its Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 21. An act relating to the mutual benefit enterprise act.

H. 413. An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult.

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

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 328. House concurrent resolution congratulating the Oxbow Union High School Olympians 2012 Division III championship girls' basketball team.

H.C.R. 329. House concurrent resolution honoring Diana Pfenning for her outstanding leadership of the Tapestry Program of Rutland County.

H.C.R. 330. House concurrent resolution congratulating the 2012 Mount St. Joseph Academy Mounties Division II championship boys' basketball team.

H.C.R. 331. House concurrent resolution congratulating Kevin Wang on winning a 2012 Siemens Award for Advanced Placement excellence in science and mathematics.

H.C.R. 332. House concurrent resolution congratulating the Hartford High School Hurricanes 2012 Division II championship girls' basketball team.

H.C.R. 333. House concurrent resolution joyfully extending birthday wishes to the grande dame of Montpelier, Lola Aiken, who turns 100 on June 24, 2012.

H.C.R. 334. House concurrent resolution recognizing Boseung Halliwell, PMHNP, for her efforts to improve the quality of health care delivery in Lamoille County.

H.C.R. 335. House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship girls' basketball team.

H.C.R. 336. House concurrent resolution congratulating the Rice Memorial High School 2012 Division I championship girls' basketball team.

Bill Referred to Committee on Appropriations**H. 757**

House bill, entitled

An act relating to a temporary moratorium on the enforcement of the sales tax on prewritten software that is accessed remotely

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Proposal of Amendment Agreed to; Third Reading Ordered**S. 179**

Rep. Ellis of Waterbury, for the committee on Natural Resources and Energy, to which had been referred Senate bill, entitled

An act relating to amending perpetual conservation easements

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 3, 10 V.S.A. § 6307 (enforcement), by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) Conservation rights. The holder of conservation rights and interests may seek injunctive relief and damages against any person who damages the holder's rights and interests, irrespective of whether the owner of the land is a party to the proceeding. This subsection shall not affect any right of the owner of the land to join or intervene in any proceeding.

Second: By striking Sec. 8 (property transfer return) in its entirety and inserting in lieu thereof the following: "Sec. 8. [Deleted.]"

Third: By striking Sec. 9 (working group) in its entirety and inserting in lieu thereof a new Sec. 9 to read:

Sec. 9. WORKING GROUP ON CONSERVATION EASEMENTS

(a) Creation of working group. There is created a working group on perpetual conservation easements to study the issues relating to the creation of a formal and transparent public process for the amendment of perpetual conservation easements, the criteria for approving such amendments, and the entity most appropriate to review and approve such amendments.

(b) Membership. The conservation easements working group (the working group) shall be composed of the following members:

(1) The secretary of agriculture, food and markets or designee.

(2) A representative of the Vermont housing and conservation board, designated by the board.

(3) The commissioner of forests, parks and recreation or designee.

(4) One member of the legal staff in the Vermont office of the attorney general, designated by the attorney general.

(5) A representative of Vermont Land Trust, designated by its board.

(6) A representative of Upper Valley Land Trust, designated by its board.

(7) A representative of the Vermont Federation of Sportsmen's Clubs, designated by its board.

(8) A representative of the Vermont Green Mountain Club, designated by its board.

(9) A representative of the Vermont chapter of The Nature Conservancy, designated by its director.

(10) A representative of a regional or local land trust in Vermont, appointed by the governor.

(11) An attorney licensed in Vermont and practicing in or knowledgeable about both federal tax law and real estate law, including land conservation, appointed by the Vermont Bar Association.

(12) A representative from a farming organization who is knowledgeable about agricultural conservation, appointed by the governor.

(13) A representative of the Vermont Association of Snow Travelers, designated by its board;

(14) A Vermont landowner owning land subject to a conservation easement, appointed by the governor.

(15) A representative of the Vermont natural resources board, appointed by the board.

(c) Structure; decision-making. The working group shall elect a chair from its membership. The provisions of 1 V.S.A. § 172 (joint authority to three or more) shall apply to the meetings and decision-making of the working group.

(d) Issues. The working group shall:

(1) Investigate the options for approval of conservation easement amendments contained in S.179 and H.553 of 2012, as introduced, and during

the course of consideration of those bills in the relevant standing committees of the general assembly, including the following options:

(A) creating an easement amendment panel within the natural resources board to provide administrative oversight and approval for the amendment of conservation easements;

(B) requiring the housing and conservation board, in conjunction with the agency of agriculture, food and markets, to provide administrative oversight and approval for the amendment of conservation easement amendments;

(C) requiring all qualified holders to individually run a transparent public process for the approval of conservation easement amendments and to issue a written decision. Under this option, the working group should consider whether the decision should be revocable or appealable, and if so, by whom;

(D) requiring all qualified holders to get court approval for amendments that may have a significant effect on the conservation values protected by the easement.

(2) Investigate any other options for conservation easement amendment approval that the working group believes are relevant.

(3) Consider any other issues it identifies as relevant to the amendment of perpetual conservation easements.

(4) Develop a proposal setting out a transparent process or processes for the amendment of perpetual conservation easements held by land trusts, state agencies, and other entities qualified to hold perpetual conservation easements in Vermont.

(5) Develop proposed statutory provisions setting out criteria to be used by an administrative body, a court, or an easement holder in approving proposed amendments to perpetual conservation easements, which will ensure that conservation values protected by easement are protected in perpetuity, and that conservation easement holders in Vermont are in compliance with federal law.

(6) Study the issue and make recommendations as to whether conservation rights and interests should be excluded from the requirements of 27 V.S.A. § 603 concerning the re-recording of interests in land within a 40-year period.

(7) Investigate whether there is an existing online or other database appropriate for the storage of information about conservation easements

alongside other information relevant to a specific property or parcel of land. This database should be available to an individual completing a title search.

(e) Report. On or before January 15, 2013, the working group shall submit to the general assembly its findings, recommendations, and proposed statutory revisions regarding the issues identified in subsection (d) of this section. This report shall be distributed to the house and senate committees on agriculture and on natural resources and energy.

(f) Assistance. For the purpose of its study of the issues identified in subsection (d) of this section and the preparation of its recommendations pursuant to subsection (e) of this section, the working group shall have the administrative and technical assistance of the housing and conservation board.

(g) Meetings. The member from the housing and conservation board shall convene the first meeting of the working group no later than July 15, 2012.

(h) Appointments. Within 30 days of the effective date of this section, each entity required to submit a list of names to the governor pursuant to subsection (b) of this section shall make such submission. Within 60 days of this section's effective date, the appointing or designating authority shall appoint or designate each member of the working group under subsection (b) of this section and shall report the member so appointed or designated to the housing and conservation board.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Recess

At ten o'clock and thirty minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock and twenty-three minutes in the forenoon the Speaker called the House to order.

Action on Bill Postponed

H. 789

House bill, entitled

An act relating to reapportioning the final representative districts of the House of Representatives

Was taken up and pending third reading of the bill, on motion of **Rep. Atkins of Winooksi**, action on the bill was postponed until the next legislative day on a Division vote. Yeas, 45. Nays, 41.

Third Reading; Bill Passed in Concurrence**S. 122**

Senate bill, entitled

An act relating to human trafficking and prostitution;

Was taken up, read the third time and passed in concurrence.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment****S. 181**

Senate bill, entitled

An act relating to school resource officers

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Senate Proposal of Amendment Concurred in**H. 634**

The Senate proposed to the House to amend House bill, entitled

An act relating to remedies for failure to pay municipal tickets

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

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on July 1, 2012.

(b) Sec. 2 of this act and this section shall take effect on passage.

Which proposal of amendment was considered and concurred in.

Adjournment

At eleven o'clock and thirty minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, April 10, 2012, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 55.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 328

House concurrent resolution congratulating the Oxbow Union High School Olympians 2012 Division III championship girls' basketball team;

H.C.R. 329

House concurrent resolution honoring Diana Pfenning for her outstanding leadership of the Tapestry Program of Rutland County;

H.C.R. 330

House concurrent resolution congratulating the 2012 Mount St. Joseph Academy Mounties Division II championship boys' basketball team;

H.C.R. 331

House concurrent resolution congratulating Kevin Wang on winning a 2012 Siemens Award for Advanced Placement excellence in science and mathematics;

H.C.R. 332

House concurrent resolution congratulating the Hartford High School Hurricanes 2012 Division II championship girls' basketball team;

H.C.R. 333

House concurrent resolution joyfully extending birthday wishes to the grande dame of Montpelier, Lola Aiken, who turns 100 on June 24, 2012;

H.C.R. 334

House concurrent resolution recognizing Boseung Halliwell, PMHNP, for her efforts to improve the quality of health care delivery in Lamoille County;

H.C.R. 335

House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship girls' basketball team;

H.C.R. 336

House concurrent resolution congratulating the Rice Memorial High School 2012 Division I championship girls' basketball team;

S.C.R. 41

Senate concurrent resolution honoring Richard Strong for his more than half-century of municipal public service in the village of Ludlow;

S.C.R. 42

Senate concurrent resolution congratulating Lyndon Rescue, Inc. on its 40th anniversary;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, April 10, 2012

Rep. Leriche of Hardwick in Chair.

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Ed Sorrell of Montgomery United Methodist Church, Montgomery, VT.

Pledge of Allegiance

Page Kirby Occaso of Kirby led the House in the Pledge of Allegiance.

**Proposal of Amendment Agreed to; Bill Read Third Time and Passed in
Concurrence with Proposal of Amendment
S. 179**

Senate bill, entitled

An act relating to amending perpetual conservation easements

Was taken up and pending third reading of the bill, **Rep. Krebs of South Hero** moved that the House Proposal of Amendment be amended in Sec. 9 by inserting a subdivision (b)(16) to read:

(16) A land surveyor licensed in Vermont, appointed by the Vermont Society of Land Surveyors.

Which was agreed to.

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

Bill Read Second Time; Third Reading Ordered**H. 791**

Rep. Clarkson of Woodstock spoke for the committee on Ways and Means.

House bill entitled

An act relating to tax expenditures for nonprofits, charitable organizations, and miscellaneous tax expenditures, as presented in the tax expenditure budget for 2012

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 116

Rep. Koch of Barre Town, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to probate proceedings

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. Rule 4(e) of the Vermont Rules of Probate Procedure is amended to read:

(e) Service by publication. When service by publication is required by this rule or by order of the court, the person directed by the court shall cause the substance of the notice prescribed by subdivision (a) of this rule, and a brief statement of the object of the petition, to be published ~~once a week for two successive weeks and at least seven days apart~~ in a designated newspaper of general circulation in the probate district where the petition was filed, or such other location as the court may direct. The ~~first~~ publication of the notice shall be made within 20 days after the petition is filed or the order is granted. Service by publication is complete on the day of ~~the last~~ publication.

Sec. 2. Rule 17 of the Vermont Rules of Probate Procedure is amended to read:

Rule 17. PARTIES GENERALLY

(a) Parties at commencement. At the commencement of a probate proceeding all interested persons shall be considered parties and shall be served with notice pursuant to Rule 4.

(1)(A) Decedent's estates. At commencement of a probate proceeding involving a decedent's estate, the term "interested person" includes heirs, devisees, legatees, children, spouses, and such other persons as the court

directs. The term "interested person" also includes the trustees of any trusts to which assets of the decedent's estate may be distributed. Notice to a trustee shall be sufficient to notify the trust's beneficiaries. It also includes persons having priority for appointment as executor or administrator, and other fiduciaries representing interested persons.

(B) The court, on motion, may order that an interested party need not be served with notice pursuant to Rule 4:

(i) if after due diligence the interested party cannot be located; or

(ii) for other good cause shown if the court finds that not providing such notice serves the interests of justice and the efficient administration of the estate.

* * *

Sec. 3. 14 V.S.A. § 3504 is amended to read:

§ 3504. SCOPE OF AUTHORITY

(a)(1) The agent shall have the authority to act on the principal's behalf as to all lawful subjects and purposes, but only to the extent such authority is given under the terms of the power of attorney, subject to section 3506 of this title and subsections (b) through (g) of this section.

(2) A general power of attorney created under this subchapter shall be construed to grant powers that are not expressly delineated in the terms of the power of attorney if it appears from the relevant facts and circumstances that the principal intended the agent to have general authority to act on the principal's behalf with respect to all lawful subjects and purposes. The specific inclusion or exclusion of one or more powers shall not, by itself, prevent a determination that the principal intended to grant general authority to the agent.

* * *

Sec. 4. 14 V.S.A. § 3516 is amended to read:

§ 3516. EFFECTIVE DATE; EFFECT ON EXISTING POWERS OF ATTORNEY

(a) A power of attorney shall be valid if it:

(1) complies with the terms of this subchapter; or

(2) is executed before July 1, 2002 and valid under common law or statute existing at the time of execution.

(b) If a power of attorney executed before July 1, 2002 was valid under common law or statute existing at the time of execution, any exercise of authority under the power of attorney, whether before or after July 1, 2002, shall be deemed valid if the exercise complies with common law or statute existing at the time of execution.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 238

Rep. Burke of Brattleboro, for the committee on Transportation, to which had been referred Senate bill, entitled

An act relating to expanding access to driving privileges in Vermont

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 1, in subsection (b), by striking the word “seven”

Second: In Sec. 1, in subsection (b), by adding two new subdivisions to be subdivisions (8) and (9) to read:

(8) One member appointed by the Addison County Economic Development Corporation.

(9) One member appointed by the Vermont Farm Bureau.

Third: In Sec. 1, in subdivision (c)(1), by striking the words “to recommend legislation that will” and inserting in lieu thereof the words “and may recommend legislation that would”

and that after passage the title of the bill be amended to read: “An act relating to a study on access to driving privileges in Vermont”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Message from the Senate No. 41

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 56. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Speaker Smith back in Chair.

Senate Proposal of Amendment Concurred in**H. 449**

The Senate proposed to the House to amend House bill, entitled

An act relating to the designation of brook trout and walleye pike as the state fish of Vermont

In Sec. 1, by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) the original designation of these two fish was championed by the students of Cornwall Elementary School, whose efforts resulted in a Joint Resolution, approved by the General Assembly on May 3, 1978 (J.R.S. 41), designating the two state fish.

Which proposal of amendment was considered and concurred in.

Read Third Time and Passed**H. 789**

House bill, entitled

An act relating to reapportioning the final representative districts of the House of Representatives

Was taken up and pending third reading of the bill, **Rep. Browning of Arlington** moved to amend the bill as follows:

First: In Sec. 1, before ~~BENNINGTON-3~~, by inserting the following:

~~BENNINGTON-2-1~~ That portion of the town of Bennington
not included in BENNINGTON-2-2 or
BENNINGTON-2-3

* * *

Second: In Sec. 1, by striking districts BENNINGTON-3-1 and BENNINGTON-3-2 in their entirety and inserting in lieu thereof the following:

BENNINGTON-2-3 Glastenbury, Shaftsbury, and that portion of the town of Bennington encompassed within a boundary beginning at the point where the boundary line of Bennington and the town of Pownal intersects with Mount Anthony Road; then northerly along the western side of the centerline of Mount Anthony Road to the intersection of VT Route 9; then easterly along the northern side of the centerline of VT 9 to the intersection of Monument Avenue; then northerly along the western side of the centerline of Monument Avenue to the intersection of Bank Street; then northeasterly along the northern side of the centerline of Bank Street to the intersection of Hunt Street; then easterly along the northern side of the centerline of Hunt Street to the intersection of Northside Drive; then northerly along the western side of the centerline of Northside Drive to the intersection of VT Route 7A; then easterly along the northern side of the centerline of VT 7A to the intersection of VT Route 7; then northerly along the western side of the centerline of VT 7 to the intersection of the boundary of Shaftsbury; then westerly along the Shaftsbury town line to the intersection of the boundary of the state of New York; then southerly along the New York state line to the intersection of the boundary of Pownal; then easterly along the Pownal town line to the point of beginning 2

BENNINGTON-3 Arlington, Sandgate, Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the centerline of VT 153 to the intersection of East Street; then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road; then easterly along the southern side and southerly along the western side of the centerline of Kent Hollow Road

to the boundary of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning 1

Third: In Sec. 1, by striking districts RUTLAND-BENNINGTON and RUTLAND-1 in their entirety and inserting in lieu thereof the following:

RUTLAND-

BENNINGTON Middletown Springs, Pawlet, Tinmouth, that portion of the town of Wells not in RUTLAND-1, and that portion of the town of Rupert not in BENNINGTON-3 1

RUTLAND-1 Ira, Poultney, and that portion of the town of Wells encompassed within a boundary beginning at the point where the boundary line of Wells and Poultney intersects with West Lake Road; then southerly along the eastern and Lake St. Catherine side of the centerline of West Lake Road to the intersection of VT Route 30; then northerly along the western and Lake St. Catherine side of the centerline of VT 30 to the boundary of Poultney; then westerly along the Poultney town line to the point of beginning 1

Thereupon, **Rep. Browning of Arlington** asked and was granted leave of the House to withdraw her amendment.

Thereupon, the bill was read a third time.

Pending the question, Shall the bill pass? **Rep. Savage of Swanton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 126. Nays, 13.

Those who voted in the affirmative are:

Acinapura of Brandon	Branagan of Georgia	Condon of Colchester
Ancel of Calais	Brennan of Colchester	Conquest of Newbury
Andrews of Rutland City	Burditt of West Rutland	Consejo of Sheldon
Atkins of Winooski	Burke of Brattleboro	Copeland-Hanzas of
Bartholomew of Hartland	Campion of Bennington	Bradford
Batchelor of Derby	Canfield of Fair Haven	Corcoran of Bennington
Bissonnette of Winooski	Cheney of Norwich	Courcelle of Rutland City
Bohi of Hartford	Christie of Hartford	Crawford of Burke
Botzow of Pownal	Clark of Vergennes	Davis of Washington
Bouchard of Colchester	Clarkson of Woodstock	Deen of Westminster

Degree of St. Albans City	Kitzmiller of Montpelier	Partridge of Windham
Devereux of Mount Holly	Klein of East Montpelier	Pearce of Richford
Dickinson of St. Albans	Koch of Barre Town	Pearson of Burlington *
Town	Komline of Dorset	Peltz of Woodbury
Donaghy of Poultney	Krebs of South Hero	Perley of Enosburgh
Donahue of Northfield	Kupersmith of South	Poirier of Barre City
Eckhardt of Chittenden	Burlington	Potter of Clarendon
Edwards of Brattleboro	Lanpher of Vergennes	Pugh of South Burlington
Ellis of Waterbury	Larocque of Barnet	Ralston of Middlebury
Emmons of Springfield	Lawrence of Lyndon	Reis of St. Johnsbury
Evans of Essex	Lenes of Shelburne	Russell of Rutland City
Fagan of Rutland City	Leriche of Hardwick	Savage of Swanton
Fisher of Lincoln	Lewis of Derby	Scheuermann of Stowe
Frank of Underhill	Lippert of Hinesburg	Shand of Weathersfield
French of Shrewsbury	Macaig of Williston	Shaw of Pittsford
French of Randolph	Manwaring of Wilmington	Smith of New Haven
Gilbert of Fairfax	Marcotte of Coventry	South of St. Johnsbury
Grad of Moretown	Marek of Newfane	Stevens of Waterbury
Greshin of Warren	Martin of Springfield	Stevens of Shoreham
Haas of Rochester	Martin of Wolcott	Strong of Albany
Head of South Burlington	Masland of Thetford	Stuart of Brattleboro
Heath of Westford	McAllister of Highgate	Sweaney of Windsor
Hebert of Vernon	McCullough of Williston	Till of Jericho
Helm of Fair Haven	McFaun of Barre Town	Toll of Danville
Higley of Lowell	McNeil of Rutland Town	Townsend of Randolph
Hooper of Montpelier	Miller of Shaftsbury	Turner of Milton
Hubert of Milton	Mook of Bennington	Waite-Simpson of Essex
Jerman of Essex	Moran of Wardsboro	Webb of Shelburne
Jewett of Ripton	Munger of South Burlington	Wilson of Manchester
Johnson of South Hero	Myers of Essex	Winters of Williamstown
Johnson of Canaan	Nuovo of Middlebury	Woodward of Johnson
Keenan of St. Albans City	O'Brien of Richmond	Wright of Burlington
Kilmartin of Newport City	Olsen of Jamaica	Young of Glover

Those who voted in the negative are:

Aswad of Burlington	Lorber of Burlington	Trieber of Rockingham
Buxton of Tunbridge	Malcolm of Pawlet	Wizowaty of Burlington
Donovan of Burlington	Mrowicki of Putney	Zagar of Barnard
Krowinski of Burlington	Ram of Burlington	
Lewis of Berlin *	Sharpe of Bristol	

Those members absent with leave of the House and not voting are:

Browning of Arlington	Morrissey of Bennington	Taylor of Barre City
Dakin of Chester	O'Sullivan of Burlington	Yantachka of Charlotte
Howard of Cambridge	Peaslee of Guildhall	
Howrigan of Fairfield	Spengler of Colchester	

Rep. Lewis of Berlin explained her vote as follows:

“Mr. Speaker:

I vote ‘no’ on this bill out of respect for my Berlin BCA, who preferred a single-seat district. However, I’m looking forward to representing my friends and neighbors in Northfield.”

Rep. Pearson of Burlington explained his vote as follows:

“Mr. Speaker:

I’m proud to support this map because I believe it is respectful of the process. It shows trust in our local officials and, in the end, shows what an effective non-partisan process can deliver. I look forward to that integrity continuing as this bill makes its way into law.”

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

Local control, the integrity of the Gov Ops Committee and the legislative reapportionment process in its entirety were preserved by the minority today. Thank you.”

Recess

At twelve o'clock and five minutes in the afternoon, the Speaker declared a recess until two o'clock and thirty minutes in the afternoon.

At two o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Rep. Leriche of Hardwick in Chair.

Bill Amended; Third Reading Ordered

H. 679

Rep. Cheney of Norwich, for the committee on Natural Resources and Energy, to which had been referred House bill, entitled

An act relating to creating a uniform generation tax for renewable energy plants

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. chapter 215 is added to read:

CHAPTER 215. RENEWABLE ENERGY

§ 8701. UNIFORM CAPACITY TAX

(a) For the purpose of this section, the terms “kW,” “plant,” “plant capacity,” and “renewable energy” shall be as defined in 30 V.S.A. § 8002.

(b) There is assessed on any renewable energy plant in Vermont generating electricity by use of solar power an annual tax of \$4.00 per kW plant capacity. The tax shall be paid to the department of taxes no later than April 15 of each year, for energy generated in the preceding year, and accompanied by a return with such information as the department of taxes may require. The department of taxes shall deposit the taxes collected under this section into the education fund. The department of taxes may adopt procedures and rules necessary to implement the tax in this section.

(c) A renewable energy plant that generates electricity from solar power shall be exempt from taxation under this section if it has a plant capacity equal to or less than 10 kW.

Sec. 2. 32 V.S.A. § 3802(17) is added to read:

(17) Real and personal property composing a renewable energy plant generating electricity from solar power, if the plant is exempt from taxation under chapter 215 of this title.

Sec. 3. 32 V.S.A. § 5401(10)(J) is amended to read:

(J) Buildings and fixtures of:

(i) wind-powered electric generating facilities taxed under section 5402c of this title; and

(ii) renewable energy plants generating electricity from solar power that are taxed under section 8701 of this title.

Sec. 4. PROSPECTIVE REPEAL; REPORT

32 V.S.A. §§ 8701(c) and 3802(17) (exemptions for small renewable energy plants) shall be repealed on January 1, 2023. By January 15, 2021, the department of taxes shall report to the senate committees on finance and on natural resources and energy, and the house committees on ways and means and on natural resources and energy with a recommendation on whether the exemptions in 32 V.S.A. §§ 8701(c) and 3802(17) should be retained or allowed to be repealed.

Sec. 5. 32 V.S.A. § 5402c(a) is amended to read:

(a) A facility certified by the commissioner of public service as a facility which produces electrical energy for resale, generated solely from wind power,

which has an installed capacity of at least ~~five megawatts~~ one megawatt, which was placed in service after January 1, 2007, and which holds a valid certificate of public good issued under 30 V.S.A. § 248, shall be assessed an alternative education property tax on its buildings and fixtures used directly and exclusively in the generation of electrical energy from wind power.

Sec. 6. 32 V.S.A. § 3101 is amended to read:

§ 3101. POWERS AND DUTIES OF COMMISSIONER

(a) The department of taxes shall be administered by a commissioner of taxes.

(b) The commissioner shall:

* * *

(11) from time to time prepare and publish statistics reasonably available with respect to the operation of this title including amounts collected, classification of taxpayers, tax liabilities and such other facts as the commissioner or the general assembly considers pertinent;

(12) ~~{Repealed.}~~

(13) from time to time provide municipalities with recommended methods for determining, for municipal tax purposes, the fair market value of renewable energy plants that are subject to taxation under section 8701 of this title.

Sec. 7. EFFECTIVE DATE

This act shall take effect on January 1, 2013.

Rep. Greshin of Warren, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Natural Resources and Energy, and when further amended as follows:

First: In Sec. 1, in 32 V.S.A. § 8701, in subsection (b), after “Vermont” by striking the words “generating electricity by use of” and inserting in lieu thereof “commissioned to generate”, and after “no later than April 15 of each year” by striking “, for energy generated in the preceding year,”

Second: In Sec. 4 (prospective repeal; report), after “allowed to be repealed” by inserting the words “and, whether the rate of tax in 32 V.S.A. § 8701(b) should be altered”

and that after passage the title of the bill be amended to read: “An act relating to creating a uniform capacity tax for solar renewable energy plants”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Natural Resources and Energy and Ways and Means agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 784

Rep. Mook of Bennington, for the committee on Government Operations, to which had been referred House bill, entitled

House bill, entitled

An act relating to approval of the adoption and codification of the charter of the town of Williamstown

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Favorable Report; Third Reading Ordered

H. 786

Rep. Devereux of Mount Holly, for the committee on Government Operations, to which had been referred House bill, entitled

House bill, entitled

An act relating to approval of amendments to the charter of the town of Windsor

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Favorable Report; Third Reading Ordered

H. 788

Rep. Townsend of Randolph, for the committee on Government Operations, to which had been referred House bill, entitled

House bill, entitled

An act relating to approval of amendments to the charter of the town of Richmond

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Action on Bill Postponed**H. 503**

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Grad of Moretown**, action on the bill was postponed until the next legislative day.

Adjournment

At two o'clock and fifty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, April 11, 2012

Rep. Leriche of Hardwick in Chair.

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Janice Chileck of the United Church of Bellows Falls, Bellows Falls, VT.

Bill Referred to Committee on Appropriations**S. 222**

Senate bill, entitled

An act relating to cost-sharing for employer-sponsored insurance assistance plans

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Referred to Committee**J.R.H. 34**

Joint resolution urging the Federal Highway Administration to reconsider the breadth and applicability of the road sign requirements

Offered by: Representatives Scheuermann of Stowe, Andrews of Rutland City, Batchelor of Derby, Botzow of Pownal, Branagan of Georgia, Browning of Arlington, Burditt of West Rutland, Buxton of Tunbridge, Christie of Hartford, Clarkson of Woodstock, Crawford of Burke, Degree of St. Albans City, Dickinson of St. Albans Town, Donovan of Burlington, Eckhardt of Chittenden, Gilbert of Fairfax, Hooper of Montpelier, Johnson of Canaan, Kupersmith of South Burlington, Lewis of Berlin, Marcotte of Coventry, Martin of Wolcott, McAllister of Highgate, Olsen of Jamaica, Peaslee of Guildhall, Peltz of Woodbury, Pugh of South Burlington, Ralston of Middlebury, Savage of Swanton, Shaw of Pittsford, Smith of New Haven, Stuart of Brattleboro, Sweaney of Windsor, Toll of Danville, Turner of Milton, Winters of Williamstown, Wright of Burlington and Young of Glover

Whereas, in 2000 and 2003, the Federal Highway Administration (FHWA) updated the Manual on Uniform Traffic Control Devices (MUTCD) to include new standards for road sign lettering size, and

Whereas, in 2009, a further MUTCD revision included a requirement that lettering on signs must use upper and lower cases because the FHWA has determined that dual case lettering is easier to read, although this requirement does not carry a specific deadline, and

Whereas, the most recent MUTCD specifies the following sign letter sizes for post-mounted street name signs: four-inch upper case and three-inch lower case letters for local roads with speed limits of 25 mph or less; six-inch upper case and 4.5-inch lower case letters for multi-lane roads with speed limits of 40 miles per hour or less, or two-lane roads with any speed limit; and eight-inch upper case and six-inch lower case letters for multi-lane highways with speed limits of more than 40 mph, and

Whereas, current MUTCD deadlines specify replacement of most noncomplying post-mounted street signs by 2012 (and 2018 for replacement of post-mounted street signs on multi-lane roads with speed limits greater than 40 mph), and

Whereas, on August 31, 2011, public pressure caused the FHWA to issue a notice of proposed amendments to the MUTCD which, if adopted, would eliminate these specific compliance dates, and

Whereas, even if the compliance dates are eliminated, signs that need to be replaced at the end of their useful service life must comply with MUTCD standards, and

Whereas, if a Vermont community fails to comply, it could lose federal aid for any of its federal aid highways and conceivably state transportation funds

as the state requires that state-supported roads be in compliance with all legal requirements, and

Whereas, these federal requirements will alter the character of road signs, especially in rural communities and at places such as covered bridges, and

Whereas, as reported in the *Stowe Reporter*, Steve Jeffrey, the executive director of the Vermont League of Cities and Towns, stated that the street sign size issue “certainly is being discussed broadly across the state,” and

Whereas, the *Stowe Reporter* article on federal road sign requirements was written because in Stowe this topic is at the forefront of public attention, and

Whereas, the Stowe selectboard has agreed to install these new larger signs on Stowe Hollow Road in order to receive federal support for needed guardrail repairs, and

Whereas, although agreeing to the sign requirement, the selectboard also wrote a letter to federal and state officials requesting that the regulatory requirements be reconsidered, stating in part that a compliant sign “makes every street corner look like the interstate highway system” and further observing, “It should be understood that Vermont is heavily dependent on travel and tourism tied to our historic character and natural beauty,” and

Whereas, Stowe Town Manager Charles Safford has estimated that to replace all of the road signs in Stowe would cost \$56,000.00, and

Whereas, in a state that prides itself on its ban on billboard advertising and restrictions on highway informational signs, the implementation of the new federal road sign requirements, especially in small town centers and rural and scenic locations, would negate the continuing work across the state to preserve the charm and natural beauty of Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Federal Highway Administration to reconsider the breadth and applicability of the road sign requirements currently contained in the Manual on Uniform Traffic Control Devices, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Transportation Ray LaHood, Federal Highway Administrator Victor M. Mendez, Vermont secretary of transportation Brian Searles, and the Vermont Congressional Delegation.

Which was read and, in the Speaker’s discretion, treated as a bill and referred to the committee on Transportation.

Joint Resolution Referred to Committee**J.R.H. 35**

Joint resolution in support of striking teachers in the Rutland Southwest Supervisory Union

Offered by: Representatives Moran of Wardsboro and Davis of Washington

Whereas, in the early morning of April 4, 2012, the Rutland Southwest Supervisory Union closed its schools as contract negotiations between teams representing the Poultney, Wells, Tinmouth, and Middletown Springs school boards and the teachers broke down, and

Whereas, the contract being negotiated is intended, pursuant to state law, to consolidate the four separate contracts currently covering each of the four towns in the Rutland Southwest Supervisory Union, and

Whereas, it appears that the schools in the four towns will be shuttered for an indefinite period of time, and

Whereas, at the time of the closure decision, the two sides had reached accord on compensation and health care coverage issues, and

Whereas, although the financial issues had been decided, matters related to work rules proved impossible to agree upon, and

Whereas, at the center of the dispute is how professional teachers allocate their time during the workday, with the school boards' negotiators insisting that the school boards have exclusive control over exactly how the teachers' daily time is allocated, including, according to the *Rutland Herald*, "preparation time, in-class teaching time, and extra hours teachers would have to abide by," and

Whereas, the school boards' negotiating team asserted that the teachers' version of work rules were from 30 years ago and "won't fly anymore," and

Whereas, Charles Haynes, the chief of the school boards' negotiating team, stated, "We are the administration, we are the boss, you have a job to do, you do it," adding "It's just standard stuff," according to the newspaper report, and

Whereas, another negotiating team member, Poultney High School board member Mary Jo Teetor, said that "management should have jurisdiction how they work . . . management rights," and

Whereas, according to the *Rutland Herald*, the spokesperson for the Vermont-NEA, Darren Allen, indicated that "boards want to control

minute-by-minute working conditions, something that isn't in contracts agreed upon for the last 40 years," and he further said of the boards' negotiating team, "They want schools to be closed because they want to be the boss, just to do what we say," and

Whereas, the attitude that the boards' negotiators have adopted is absolutely contrary to the core concept of collective bargaining and damaging to labor relations in public education in Vermont, and

Whereas, were the boards' position to prevail, some other school boards might feel empowered to pursue a similar path and demand strict compliance with their version of work rules for members of the teaching profession without any fair and open negotiations or compromise, and

Whereas, this situation is intolerable and incompatible with the delivery of high-quality education and the fostering of amicable relations between school boards and teachers, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the school boards' negotiating team in the Rutland Southwest Supervisory Union to return immediately to good-faith bargaining as provided by 16 V.S.A. § 2001 both to establish fruitful relations with its teachers and to enable education to resume for the children of its communities, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Rutland Southwest Supervisory Union and Vermont-NEA.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Education.

Joint Resolution Adopted in Concurrence

J.R.S. 56

By Senators Carris and Mullin,

J.R.S. 56. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, April 12, 2012, or, Friday, April 13, 2012, it be to meet again no later than Tuesday, April 17, 2012.

Was taken up read and adopted in concurrence.

Speaker Smith in Chair.

Bill Placed on Calendar**H. 757**

House bill, entitled

An act relating to a temporary moratorium on the enforcement of the sales tax on prewritten software that is accessed remotely;

Rep. Scheuermann of Stowe asked leave of the House to withdraw the bill and, under the rule, the bill was ordered placed on the Calendar for action on the next legislative day.

Remarks Journalized

On motion of **Rep. Degree of St. Albans City**, the following remarks by **Rep. Komline of Dorset** were ordered printed in the Journal:

“Mr. Speaker:

As many of you are aware, House Bill 718 is “resting comfortably” in Appropriations. There is a bill in House Energy that is being held up as well.

Should either of these bills come here to the floor we would be able to attach our amendment regarding the \$21M payback to CVPS customers. This amendment has 72 sponsors and about 10 more people told me they would vote for it but didn’t want to sign on because they wanted to avoid being hassled by big utility lobbyists.

The Representatives in this building have the facts. Their support isn’t based on distorted spin and for anyone to assume otherwise is an insult to these elected officials. We should be able to vote.

80 Members of this house – each representing about 4000 people. That is total of 320,000 Vermonters. We are being blocked from representing these constituents by one person.

Mr. Speaker, I have great respect for you and through these years of working together this respect has only grown. From the time I first arrived here and I’d look across at you and catch your eye as we both experienced frustration with some of floor actions. To the relationship we built when I was in leadership.

We both know that important things can happen in this building when we put our principles above politics.

You have always acted in an honorable manner. And that is why I make this public plea to you now.

Please give us a chance to do the job we were elected to do even if it is opposition to the Administration. Please let the process play out. Please allow our amendment to come to the floor.

Consideration Interrupted by Recess

H. 300

Rep. Wright of Burlington moved that the committee on Education be relieved of further consideration of House bill entitled

An act relating to the requirement of mandatory binding arbitration and the elimination of strikes and imposed contracts in connection with the collective bargaining for teachers' and school administrators' contracts;

Pending the question, Shall the Committee on Education be relieved of the bill? **Rep. Wright of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number.

Recess

At one o'clock and forty minutes in the afternoon, the Speaker declared a recess until two o'clock in the afternoon.

At two o'clock in the afternoon, the Speaker called the House to order.

Consideration Resumed; Committee not Relieved of Bill

H. 300

Consideration resumed on House bill, entitled

An act relating to the requirement of mandatory binding arbitration and the elimination of strikes and imposed contracts in connection with the collective bargaining for teachers' and school administrators' contracts;

Thereupon, the Clerk proceeded to call the roll and the question, Shall the Committee on Education be relieved of the bill? was decided in the negative. Yeas, 34. Nays, 105.

Those who voted in the affirmative are:

Acinapura of Brandon
Batchelor of Derby
Burditt of West Rutland
Canfield of Fair Haven
Clark of Vergennes
Degree of St. Albans City

Devereux of Mount Holly
Dickinson of St. Albans
Town
Donaghy of Poultney
Eckhardt of Chittenden
Fagan of Rutland City

Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Johnson of Canaan
Komline of Dorset
Larocque of Barnet

Lawrence of Lyndon
 Lewis of Berlin
 Lewis of Derby
 Marcotte of Coventry
 McAllister of Highgate
 McNeil of Rutland Town

Myers of Essex
 Olsen of Jamaica
 Peaslee of Guildhall
 Reis of St. Johnsbury
 Savage of Swanton
 Scheuermann of Stowe

Shaw of Pittsford
 Strong of Albany
 Turner of Milton
 Winters of Williamstown
 Wright of Burlington *

Those who voted in the negative are:

Ancel of Calais
 Andrews of Rutland City
 Aswad of Burlington
 Atkins of Winooski
 Bartholomew of Hartland
 Bissonnette of Winooski
 Bohi of Hartford
 Botzow of Pownal
 Branagan of Georgia
 Browning of Arlington
 Burke of Brattleboro
 Buxton of Tunbridge
 Campion of Bennington
 Cheney of Norwich
 Christie of Hartford
 Clarkson of Woodstock
 Conquest of Newbury
 Consejo of Sheldon
 Copeland-Hanzas of
 Bradford
 Corcoran of Bennington
 Courcelle of Rutland City
 Crawford of Burke
 Dakin of Chester
 Davis of Washington
 Deen of Westminster
 Donahue of Northfield
 Donovan of Burlington
 Edwards of Brattleboro
 Ellis of Waterbury
 Emmons of Springfield
 Evans of Essex
 Fisher of Lincoln
 Frank of Underhill
 French of Shrewsbury
 French of Randolph

Gilbert of Fairfax
 Grad of Moretown
 Greshin of Warren
 Haas of Rochester
 Head of South Burlington
 Heath of Westford
 Hooper of Montpelier
 Howrigan of Fairfield
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Keenan of St. Albans City
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Koch of Barre Town
 Krebs of South Hero
 Krowinski of Burlington
 Kupersmith of South
 Burlington
 Lanpher of Vergennes
 Lenes of Shelburne
 Leriche of Hardwick
 Lippert of Hinesburg
 Lorber of Burlington
 Macaig of Williston
 Malcolm of Pawlet
 Manwaring of Wilmington
 Marek of Newfane
 Martin of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 McFaun of Barre Town
 Miller of Shaftsbury
 Mook of Bennington
 Moran of Wardsboro

Mrowicki of Putney
 Munger of South Burlington
 Nuovo of Middlebury
 O'Brien of Richmond
 Partridge of Windham
 Pearce of Richford
 Pearson of Burlington
 Peltz of Woodbury
 Perley of Enosburgh
 Poirier of Barre City
 Potter of Clarendon
 Pugh of South Burlington
 Ralston of Middlebury
 Ram of Burlington
 Russell of Rutland City
 Shand of Weathersfield
 Sharpe of Bristol
 South of St. Johnsbury
 Spengler of Colchester
 Stevens of Waterbury
 Stuart of Brattleboro
 Sweaney of Windsor
 Taylor of Barre City
 Till of Jericho
 Toll of Danville
 Townsend of Randolph
 Trieber of Rockingham
 Waite-Simpson of Essex
 Webb of Shelburne
 Wilson of Manchester
 Wizowaty of Burlington
 Woodward of Johnson
 Yantachka of Charlotte
 Young of Glover
 Zagar of Barnard

Those members absent with leave of the House and not voting are:

Bouchard of Colchester
 Brennan of Colchester

Condon of Colchester
 Howard of Cambridge

Hubert of Milton
 Kilmartin of Newport City

Morrissey of Bennington
O'Sullivan of Burlington

Smith of New Haven
Stevens of Shoreham

Rep. Wright of Burlington explained his vote as follows:

“Mr. Speaker:

It is high time the legislature debates H.300, a bill that strives to create a better and more fair system for students and their families as well as teachers and the entire community, while preserving collective bargaining. The Commissioner of Education and the Governor have called for this type of legislation. Why are we afraid to have the debate?”

Senate Proposal of Amendment Concurred in

H. 21

The Senate proposed to the House to amend House bill, entitled

An act relating to the mutual benefit enterprise act

First: In Sec. 1, in 11C V.S.A. § 203(a), in the second sentence, following the words “filed record” by striking out the words “and a receipt for the fees”

Second: In Sec. 1, in 11C V.S.A. § 207(a), by striking out the word “and” in subdivision (3), by redesignating subdivision (4) as subdivision (5), and by inserting a new subdivision (4) to read as follows:

(4) the name and business address of any director or officer; and

Third: In Sec. 1, in 11C V.S.A. § 207, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) A mutual benefit enterprise or foreign enterprise authorized to transact business in this state shall deliver its annual report to the secretary for filing between January 1 and April 1 of each year, beginning in the year following the calendar year in which the mutual benefit enterprise is formed or the foreign enterprise is authorized to transact business in this state.

Fourth: In Sec. 1, in 11C V.S.A. § 207(e), following the words “designated office,” by striking out the words “the name of the agent for service of process” and inserting in lieu thereof the following: the name or business address of a director or officer

Fifth: In Sec. 1., by striking out 11C V.S.A. § 1214 in its entirety and redesignating that section as “[Reserved.]”

Which proposal of amendment was considered and concurred in.

Action on Bill Postponed**H. 503**

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until Friday, April 13, 2012.

Bill Amended, Read Third Time and Passed**H. 679**

House bill, entitled

An act relating to creating a uniform generation tax for renewable energy plants

Was taken up and pending third reading of the bill, **Rep. Greshin of Warren** moved to amend the bill as follows:

First: In Sec. 1, in 32 V.S.A. § 8701, in subsection (a), after the words “defined in 30 V.S.A. § 8002” by inserting the words “; provided, however, that any tax or exemption under this chapter shall only apply to the fixtures and personal property of a plant, and not to the underlying land”

Second: In Sec. 2, 32 V.S.A. § 3802(17), by striking “if” and inserting in lieu thereof “to the extent”

Which was agreed to. Thereupon, the bill was read the third time and passed.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 784

House bill, entitled

An act relating to approval of the adoption and codification of the charter of the town of Williamstown

H. 786

House bill, entitled

An act relating to approval of amendments to the charter of the town of Windsor

H. 788

House bill, entitled

An act relating to approval of amendments to the charter of the town of Richmond

H. 791

House bill, entitled

An act relating to tax expenditures for nonprofits, charitable organizations, and miscellaneous tax expenditures, as presented in the tax expenditure budget for 2012

Action on Bill Postponed**S. 116**

Senate bill, entitled

An act relating to probate proceedings;

Was taken up and pending third reading of the bill, on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until the next legislative day.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment****S. 238**

Senate bill, entitled

An act relating to expanding access to driving privileges in Vermont

Was taken up and read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Browning of Arlington** moved to commit the bill to the committee on Judiciary.

Pending the question, Shall the bill be referred to the the Committee on Judiciary? **Rep. Browning of Arlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be referred to the the Committee on Judiciary? was decided in the negative. Yeas, 18. Nays, 118.

Those who voted in the affirmative are:

Batchelor of Derby
Browning of Arlington
Burditt of West Rutland

Canfield of Fair Haven
Degree of St. Albans City
Devereux of Mount Holly

Fagan of Rutland City
Hebert of Vernon
Higley of Lowell

Johnson of Canaan
Koch of Barre Town
Lewis of Derby

Marcotte of Coventry
Myers of Essex
Strong of Albany

Toll of Danville
Turner of Milton
Winters of Williamstown

Those who voted in the negative are:

Acinapura of Brandon
Ancel of Calais
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Bartholomew of Hartland
Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Branagan of Georgia
Brennan of Colchester
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Cheney of Norwich
Christie of Hartford
Clark of Vergennes
Clarkson of Woodstock
Conquest of Newbury
Consejo of Sheldon
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Courcelle of Rutland City
Crawford of Burke
Dakin of Chester
Davis of Washington
Deen of Westminster
Donaghy of Poultney
Donahue of Northfield
Donovan of Burlington
Edwards of Brattleboro
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fisher of Lincoln
Frank of Underhill
French of Shrewsbury
French of Randolph
Gilbert of Fairfax

Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington
Heath of Westford
Helm of Fair Haven
Hooper of Montpelier
Howrigan of Fairfield
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Kitzmiller of Montpelier
Klein of East Montpelier
Komline of Dorset
Krebs of South Hero
Krowinski of Burlington
Kupersmith of South
Burlington
Lanpher of Vergennes
Larocque of Barnet
Lawrence of Lyndon
Lenes of Shelburne
Leriche of Hardwick
Lewis of Berlin
Lippert of Hinesburg
Lorber of Burlington
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Martin of Wolcott
McAllister of Highgate
McCullough of Williston
McFaun of Barre Town
McNeil of Rutland Town
Miller of Shaftsbury
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney

Munger of South Burlington
Nuovo of Middlebury
O'Brien of Richmond
Olsen of Jamaica
Partridge of Windham
Pearce of Richford
Pearson of Burlington
Peaslee of Guildhall
Peltz of Woodbury
Perley of Enosburgh
Poirier of Barre City
Potter of Clarendon
Pugh of South Burlington
Ralston of Middlebury
Ram of Burlington
Reis of St. Johnsbury
Russell of Rutland City
Savage of Swanton
Scheuermann of Stowe
Shand of Weathersfield
Sharpe of Bristol
Shaw of Pittsford
South of St. Johnsbury
Spengler of Colchester
Stevens of Waterbury
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Townsend of Randolph
Trieber of Rockingham
Waite-Simpson of Essex
Webb of Shelburne
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Wright of Burlington
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

Those members absent with leave of the House and not voting are:

Bouchard of Colchester

Condon of Colchester

Dickinson of St. Albans
Town
Eckhardt of Chittenden
Howard of Cambridge

Hubert of Milton
Jerman of Essex
Kilmartin of Newport City
Masland of Thetford

Morrissey of Bennington
O'Sullivan of Burlington
Smith of New Haven
Stevens of Shoreham

Thereupon, the bill was passed in concurrence with proposal of amendment.

Action on Bill Postponed

H. 413

House bill, entitled

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until Friday, April 13, 2012.

Adjournment

At two o'clock and fifty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, April 12, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Thomas Koch of Barre Town, VT.

Message from the Senate No. 42

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 142. An act relating to pet merchants.

S. 180. An act relating to the universal service fund and establishment of a high-cost program.

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

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

H. 565. An act relating to regulating licensed lenders and mortgage loan originators.

H. 613. An act relating to governance of the Community High School of Vermont.

And has passed the same in concurrence.

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

H. 403. An act relating to foreclosure of mortgages.

H. 459. An act relating to approval of amendments to the charter of the town of Brattleboro.

H. 752. An act relating to permitting stormwater discharges in impaired watersheds.

H. 765. An act relating to the mental health needs of the corrections population.

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

House Bills Introduced

H. 792

By Reps. Aswad of Burlington, Bissonnette of Winooski, Donovan of Burlington, Krowinski of Burlington, Lorber of Burlington, O'Sullivan of Burlington, Pearson of Burlington, Ram of Burlington, Wizowaty of Burlington and Wright of Burlington,

House bill, entitled

An act relating to approval of amendments to the charter of the city of Burlington;

To the committee on Government Operations.

H. 793

By Reps. Atkins of Winooski and Bissonnette of Winooski,

House bill, entitled

An act relating to approval of amendments to the charter of the Winooski incorporated school district;

To the committee on Government Operations.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 142

Senate bill, entitled

An act relating to pet merchants;

To the committee on Rules.

S. 180

Senate bill, entitled

An act relating to the universal service fund and establishment of a high-cost program;

To the committee on Rules.

Committee Relieved of Consideration and Bill Committed to Other Committee

H. 718

Rep. Marcotte of Coventry moved that the committee on Appropriations be relieved of House bill, entitled

An act relating to the department of public service and the public service board

And that the bill be committed to the committee on Commerce and Economic Development, which was agreed to.

Proposal of Amendment Agreed to; Bill Read third Time and Passed in Concurrence with Proposal of Amendment

S. 116

Senate bill, entitled

An act relating to probate proceedings

Was taken up and pending third reading of the bill, **Rep. Wizowaty of Burlington**, moved that the House propose to the Senate to amend the bill as follows:

By inserting a new Sec. 5 to read as follows:

Sec. 5. MINOR GUARDIANSHIP STUDY COMMITTEE

The minor guardianship study committee created by Sec. 23 of No. 56 of the Acts of 2011 shall continue to meet during 2012 and shall report any additional findings and recommendations to the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare on or before December 15, 2012, whereupon it shall cease to exist.

and by renumbering the remaining section to be numerically correct. Which was agreed to.

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

Recess

At one o'clock and thirty minutes in the afternoon, the Speaker declared a recess until two o'clock in the afternoon.

At two o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

Request to Withdraw Bill Denied

H. 757

House bill, entitled

An act relating to a temporary moratorium on the enforcement of the sales tax on prewritten software that is accessed remotely;

Pending the question, Shall the bill be withdrawn as requested by Rep. Scheuermann of Stowe? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be withdrawn as requested by Rep. Scheuermann of Stowe? was decided in the negative. Yeas, 45. Nays, 88.

Those who voted in the affirmative are:

Acinapura of Brandon	Devereux of Mount Holly	Hebert of Vernon *
Batchelor of Derby	Dickinson of St. Albans	Helm of Fair Haven
Bouchard of Colchester	Town	Higley of Lowell
Burditt of West Rutland	Donaghy of Poultney	Hubert of Milton
Canfield of Fair Haven	Donahue of Northfield	Johnson of Canaan
Clark of Vergennes	Eckhardt of Chittenden	Kilmartin of Newport City
Crawford of Burke	Fagan of Rutland City	Koch of Barre Town
Degree of St. Albans City *	Greshin of Warren	Komline of Dorset

Larocque of Barnet
Lawrence of Lyndon
Lewis of Berlin
Lewis of Derby
Marcotte of Coventry
McAllister of Highgate
McFaun of Barre Town
Myers of Essex

Pearce of Richford
Peaslee of Guildhall
Perley of Enosburgh
Reis of St. Johnsbury
Savage of Swanton
Scheuermann of Stowe *
Shaw of Pittsford
Smith of New Haven

Strong of Albany
Townsend of Randolph
Turner of Milton
Winters of Williamstown
Wright of Burlington
Young of Glover

Those who voted in the negative are:

Ancel of Calais
Andrews of Rutland City
Atkins of Winooski
Bartholomew of Hartland
Botzow of Pownal
Branagan of Georgia
Browning of Arlington
Buxton of Tunbridge
Campion of Bennington
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Conquest of Newbury
Copeland-Hanzas of
Bradford
Courcelle of Rutland City
Dakin of Chester
Deen of Westminster
Donovan of Burlington
Edwards of Brattleboro
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fisher of Lincoln
Frank of Underhill
French of Shrewsbury
French of Randolph
Gilbert of Fairfax
Grad of Moretown
Haas of Rochester

Head of South Burlington
Heath of Westford
Hooper of Montpelier
Howrigan of Fairfield
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Kitzmiller of Montpelier
Klein of East Montpelier
Krowinski of Burlington
Kupersmith of South
Burlington
Lenes of Shelburne
Leriche of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane *
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCullough of Williston
Miller of Shaftsbury
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
Munger of South Burlington
Nuovo of Middlebury

O'Sullivan of Burlington
Partridge of Windham
Pearson of Burlington
Peltz of Woodbury
Poirier of Barre City
Potter of Clarendon
Pugh of South Burlington
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Shand of Weathersfield
Sharpe of Bristol
South of St. Johnsbury
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweeney of Windsor
Taylor of Barre City
Till of Jericho
Toll of Danville
Trieber of Rockingham
Waite-Simpson of Essex
Webb of Shelburne
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Yantachka of Charlotte
Zagar of Barnard

Those members absent with leave of the House and not voting are:

Aswad of Burlington
Bissonnette of Winooski
Bohi of Hartford
Brennan of Colchester

Burke of Brattleboro
Condon of Colchester
Consejo of Sheldon
Corcoran of Bennington

Davis of Washington
Howard of Cambridge
Krebs of South Hero
Lanpher of Vergennes

McNeil of Rutland Town
Morrissey of Bennington

O'Brien of Richmond
Olsen of Jamaica

Rep. Degree of St. Albans City explained his vote as follows:

“Mr. Speaker:

Granting this request would have been fully allowed by Rule 85.”

Rep. Hebert of Vernon explained his vote as follows:

“Mr. Speaker:

I believe the majority has cast votes which may well discourage minority members from offering bills, by failing to honor the spirit of Rule 85.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

Granting this request to withdraw a bill after it has been fully considered in committee, amended, voted out and referred to another committee would totally disrupt the business of this House. A bill with 50 co-sponsors, all of whom but one still supported it, could see that single member suddenly move to withdraw it as it came to the floor. That is no way to do the people’s business and it was ample reason to deny this truly unfortunate request.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

This was a simple request. That it became the partisan issue it became has flabbergasted me. To not allow a fellow member to withdraw her own bill when that bill has changed so significantly from its original intent is a slap in the face to this body in which we are so fortunate to serve.

Thank you, though, Mr. Speaker for your efforts to come to a fair resolution to this. I am sorry it was not supported by others.”

Proposal of Amendment Agreed to; Third Reading Ordered

S. 199

Rep. Fisher of Lincoln, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. 18 V.S.A. § 1121(c) is added to read:

(c) Annually, on or before September 15th, schools and child care facilities shall make publicly available the aggregated immunization rates of the student body for each required vaccine to the extent permitted under the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191.

Sec. 2. 18 V.S.A. § 1122 is amended to read:

§ 1122. EXEMPTIONS

(a) ~~A~~ Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in the child care facility without a required immunization:

(1) If the person; or, in the case of a minor, the person's parent or guardian presents ~~a written statement, an immunization exemption form~~ from a licensed health care practitioner authorized to prescribe vaccines or a health clinic, or nurse that the person is in the process of being immunized. The person may continue to attend school or the child care facility as long as the immunization process is being accomplished;

(2) If a health care practitioner, licensed to practice in Vermont and authorized to prescribe vaccines, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate; provided that when a particular vaccine is no longer contraindicated, the person shall be required to receive the vaccine; or

(3) If the person; or, in the case of a minor, the person's parent or guardian ~~states in writing~~ annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health that the person, parent, or guardian:

(A) ~~has~~ holds religious beliefs or philosophical convictions opposed to immunization;

(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations; and

(C) understands that failure to complete the required vaccination schedule places the person and others at risk for contracting or carrying a vaccine-preventable infectious disease.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

Sec. 3. 18 V.S.A. § 1124 is amended as follows:

§ 1124. ACCESS TO AND REPORTING OF IMMUNIZATION RECORDS

(a) In addition to any data collected in accordance with the requirements of the Centers for Disease Control and Prevention, the Vermont department of health shall annually collect from schools the immunization rates for at least those students in the first and eighth grades for each required vaccine. The data collected by the department shall include the number of medical, philosophical, and religious exemptions filed for each required vaccine and the number of students with a provisional admittance.

(b) Appropriate health personnel, including school nurses, shall have access to immunization records of anyone enrolled in Vermont schools or child care facilities, when access is required in the performance of official duties related to the immunizations required by this subchapter. Access to student immunization records shall only be provided with the prior written consent of parents and students as required by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted thereunder.

Sec. 4. 18 V.S.A. § 1130(b)(1) is amended to read:

(b)(1) The department of health shall establish an immunization pilot program with the ultimate goal of ensuring universal access to vaccines for all Vermonters at no charge to the individual and to reduce the cost at which the state may purchase vaccines. The pilot program shall be in effect from January 1, 2010, through December 31, ~~2012~~ 2014. During the term of the pilot program, the department shall purchase, provide for the distribution of, and monitor the use of vaccines as provided for in this subsection and subsection (c) of this section. The cost of the vaccines and an administrative surcharge shall be reimbursed by health insurers as provided for in subsections (e) and (f) of this section.

Sec. 5. APPROPRIATION

For the 2013 fiscal year, \$40,395.00 shall be appropriated from the Global Commitment fund to the Vermont department of health for the purpose of improving the immunization rates of communities with low immunization rates or high provisional admittance rates. There shall be appropriated to the agency of human services \$17,600.00 in general funds and \$22,795.00 in federal funds.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Rep. Keenan of St. Albans City, for the committee on Appropriations, recommended that the bill ought to pass in concurrence with proposal of amendment as recommended by the committee on Health Care.

Thereupon, the bill was read the second time and pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Health Care? **Rep. Keenan of St. Albans City** moved to amend the recommendation of proposal of amendment offered by the committee on Health Care, as follows:

By striking Sec. 5 in its entirety and renumbering the remaining section to be numerically correct. Which was agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Health Care? **Rep. Donahue of Northfield** moved to amend the recommendation of proposal of amendment as follows:

By adding a new Sec. 5 to read as follows:

Sec. 5. REPORT

The Vermont department of health shall submit a report to the general assembly on or before January 15, 2014 containing data collected pursuant to 18 V.S.A. § 1124(a) for the purpose of informing future policy discussions regarding immunization exemptions.

and by renumbering the bill accordingly. Which was agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Health Care? **Reps. Clark of Vergennes and Fisher of Lincoln** moved to amend the recommendation of proposal of amendment as follows:

In Sec. 2, 18 V.S.A. § 1122, by striking subdivision (a)(3) and inserting in lieu thereof the following:

(3) If the person; or, in the case of a minor, the person's parent or guardian ~~states in writing annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health~~ that the person, parent, or guardian;

(A) ~~has~~ holds religious beliefs or philosophical convictions opposed to immunization;

(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations, including information about the risks of adverse reactions to vaccination; and

(C) understands that failure to complete the required vaccination schedule increases risk to the person and others of contracting or carrying a vaccine-preventable infectious disease.

Pending the question, Shall the report of the Committee on Health Care be further amended as recommended by Rep. Clark of Vergennes? **Rep. Clark of Vergennes** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Committee on Health Care be further amended as recommended by Rep. Clark of Vergennes? was decided in the affirmative. Yeas, 130. Nays, 3.

Those who voted in the affirmative are:

Acinapura of Brandon	Donovan of Burlington	Koch of Barre Town
Ancel of Calais	Eckhardt of Chittenden	Komline of Dorset
Andrews of Rutland City	Edwards of Brattleboro	Krowinski of Burlington
Atkins of Winooski	Ellis of Waterbury	Kupersmith of South Burlington
Bartholomew of Hartland	Emmons of Springfield	Larocque of Barnet
Batchelor of Derby	Evans of Essex	Lawrence of Lyndon
Botzow of Pownal	Fagan of Rutland City	Lenes of Shelburne
Bouchard of Colchester	Fisher of Lincoln	Leriche of Hardwick
Branagan of Georgia	Frank of Underhill	Lewis of Berlin
Browning of Arlington	French of Shrewsbury	Lewis of Derby
Burditt of West Rutland	French of Randolph	Lippert of Hinesburg
Buxton of Tunbridge	Gilbert of Fairfax	Lorber of Burlington
Campion of Bennington	Grad of Moretown	Macaig of Williston
Canfield of Fair Haven	Greshin of Warren	Malcolm of Pawlet
Cheney of Norwich	Haas of Rochester	Manwaring of Wilmington
Christie of Hartford	Head of South Burlington	Marcotte of Coventry
Clark of Vergennes	Heath of Westford	Marek of Newfane
Clarkson of Woodstock	Hebert of Vernon	Martin of Springfield
Conquest of Newbury	Helm of Fair Haven	Martin of Wolcott
Copeland-Hanzas of Bradford	Higley of Lowell	Masland of Thetford
Courcelle of Rutland City	Hooper of Montpelier	McAllister of Highgate
Crawford of Burke	Howrigan of Fairfield	McCullough of Williston
Dakin of Chester	Hubert of Milton	McFaun of Barre Town
Deen of Westminster	Jerman of Essex	Miller of Shaftsbury
Degree of St. Albans City	Jewett of Ripton	Mook of Bennington
Devereux of Mount Holly	Johnson of South Hero	Moran of Wardsboro
Dickinson of St. Albans Town	Johnson of Canaan	Mrowicki of Putney
Donaghy of Poultney	Keenan of St. Albans City	Munger of South Burlington
	Kitzmiller of Montpelier	Myers of Essex
	Klein of East Montpelier	

Nuovo of Middlebury	Russell of Rutland City	Toll of Danville
Olsen of Jamaica	Savage of Swanton	Trieber of Rockingham
O'Sullivan of Burlington	Scheuermann of Stowe	Turner of Milton
Partridge of Windham	Sharpe of Bristol	Waite-Simpson of Essex
Pearce of Richford	Shaw of Pittsford	Webb of Shelburne
Pearson of Burlington	Smith of New Haven	Wilson of Manchester
Peaslee of Guildhall	South of St. Johnsbury	Winters of Williamstown
Peltz of Woodbury	Spengler of Colchester	Wizowaty of Burlington
Perley of Enosburgh	Stevens of Waterbury	Woodward of Johnson
Poirier of Barre City	Stevens of Shoreham	Wright of Burlington
Potter of Clarendon	Strong of Albany	Yantachka of Charlotte
Pugh of South Burlington	Stuart of Brattleboro	Young of Glover
Ralston of Middlebury	Sweaney of Windsor	Zagar of Barnard
Ram of Burlington	Taylor of Barre City	
Reis of St. Johnsbury	Till of Jericho	

Those who voted in the negative are:

Donahue of Northfield	Kilmartin of Newport City *	Shand of Weathersfield

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Consejo of Sheldon	McNeil of Rutland Town
Bissonnette of Winooski	Corcoran of Bennington	Morrissey of Bennington
Bohi of Hartford	Davis of Washington	O'Brien of Richmond
Brennan of Colchester	Howard of Cambridge	Townsend of Randolph
Burke of Brattleboro	Krebs of South Hero	
Condon of Colchester	Lanpher of Vergennes	

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

Clark-Fisher Amendment No. Parts (B) and (C) unconstitutionally coerce speech and affirm the truth of unverifiable facts, particularly in part (C). No disease is 100% preventable by vaccine. Part (C) represents a flat earth mentality. While well-intentioned, its wording is devilish when precisely applied.”

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Health Care? **Rep. Donahue of Northfield** moved to amend the recommendation of proposal of amendment as follows:

In Sec. 1, 18 V.S.A. § 1121, by adding subsection (d) to read as follows:

(d) If, after comparing school immunization rates made publicly available pursuant to subsection (c) of this section, a vaccinated person or, if the person is a minor, the person's parent or guardian has concerns about the risks to the person from unvaccinated students enrolled in the school maintained by the person's school district of residence, then the person may enroll in a public school maintained by an adjoining school district with a higher immunization rate. The school district of residence shall pay tuition for the person pursuant to 16 V.S.A. §§ 823 and 824.

Which was disagreed to in a Division vote. Yeas, 34. Nays, 88.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Health Care? **Reps. Poirier of Barre City and Koch of Barre Town** moved to amend the recommendation of proposal of amendment as follows:

First: By striking Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. 18 V.S.A. § 1122(a) is amended to read:

(a) A person may remain in school or in the child care facility without a required immunization:

* * *

(3) If the person, or, in the case of a minor, the person's parent or guardian states in writing that the person, parent, or guardian has religious beliefs ~~or philosophical convictions~~ opposed to immunization.

Second: In Sec. 3, 18 V.S.A. § 1124, subsection (a), in the second sentence, by striking “, philosophical,”

Pending the question, Shall the report of the Committee on Health Care be amended as recommended by Reps. Poirier of Barre City and Rep. Koch of Barre Town? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Committee on Health Care be amended as recommended by Reps. Poirier of Barre City and Rep. Koch of Barre Town? was decided in the negative. Yeas, 36. Nays, 93.

Those who voted in the affirmative are:

Buxton of Tunbridge
Campion of Bennington
Christie of Hartford
Clarkson of Woodstock
Dakin of Chester

Degree of St. Albans City
Dickinson of St. Albans
Town
Donaghy of Poultney
Donahue of Northfield *

Evans of Essex
Fagan of Rutland City
French of Randolph
Gilbert of Fairfax
Heath of Westford

Helm of Fair Haven	Lorber of Burlington	Potter of Clarendon
Howrigan of Fairfield	Macaig of Williston	Savage of Swanton
Hubert of Milton	Marek of Newfane	Shand of Weathersfield
Jerman of Essex	McFaun of Barre Town	Till of Jericho
Keenan of St. Albans City	Miller of Shaftsbury	Toll of Danville
Koch of Barre Town	Myers of Essex	Turner of Milton
Komline of Dorset	O'Sullivan of Burlington	
Lewis of Derby	Poirier of Barre City *	

Those who voted in the negative are:

Acinapura of Brandon	Higley of Lowell	Pearce of Richford
Ancel of Calais	Hooper of Montpelier	Pearson of Burlington
Andrews of Rutland City *	Jewett of Ripton	Peaslee of Guildhall
Atkins of Winooski *	Johnson of South Hero	Peltz of Woodbury
Bartholomew of Hartland	Johnson of Canaan	Perley of Enosburgh
Batchelor of Derby	Kilmartin of Newport City	Pugh of South Burlington
Botzow of Pownal	Kitzmiller of Montpelier	Ralston of Middlebury
Bouchard of Colchester	Klein of East Montpelier	Ram of Burlington
Branagan of Georgia	Krowinski of Burlington	Reis of St. Johnsbury
Browning of Arlington	Kupersmith of South	Russell of Rutland City
Burditt of West Rutland	Burlington	Scheuermann of Stowe
Canfield of Fair Haven	Larocque of Barnet	Sharpe of Bristol
Cheney of Norwich	Lawrence of Lyndon	Shaw of Pittsford
Clark of Vergennes	Lenes of Shelburne	Smith of New Haven
Conquest of Newbury	Leriche of Hardwick	South of St. Johnsbury
Copeland-Hanzas of	Lewis of Berlin	Spengler of Colchester
Bradford	Lippert of Hinesburg	Stevens of Waterbury
Courcelle of Rutland City	Malcolm of Pawlet	Stevens of Shoreham
Crawford of Burke	Manwaring of Wilmington	Stuart of Brattleboro
Devereux of Mount Holly	Marcotte of Coventry	Sweaney of Windsor
Donovan of Burlington	Martin of Springfield	Taylor of Barre City
Eckhardt of Chittenden	Martin of Wolcott	Trieber of Rockingham
Edwards of Brattleboro	Masland of Thetford	Waite-Simpson of Essex *
Emmons of Springfield	McAllister of Highgate	Webb of Shelburne
Fisher of Lincoln	McCullough of Williston	Wilson of Manchester
Frank of Underhill	Mook of Bennington	Wizowaty of Burlington *
French of Shrewsbury	Moran of Wardsboro	Woodward of Johnson
Grad of Moretown	Mrowicki of Putney	Wright of Burlington
Greshin of Warren	Munger of South Burlington	Yantachka of Charlotte
Haas of Rochester	Nuovo of Middlebury	Young of Glover
Head of South Burlington	Olsen of Jamaica	Zagar of Barnard
Hebert of Vernon	Partridge of Windham	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Burke of Brattleboro	Davis of Washington
Bissonnette of Winooski	Condon of Colchester	Deen of Westminster
Bohi of Hartford	Consejo of Sheldon	Ellis of Waterbury
Brennan of Colchester	Corcoran of Bennington	Howard of Cambridge

Krebs of South Hero
Lanpher of Vergennes
McNeil of Rutland Town

Morrissey of Bennington
O'Brien of Richmond
Strong of Albany

Townsend of Randolph
Winters of Williamstown

Rep. Andrews of Rutland City explained her vote as follows:

“Mr. Speaker:

I believe, at this time, education and information are the best way to increase vaccination rates. I remain deeply concerned about children with medical conditions who cannot be vaccinated.

With every right comes a responsibility. I hope that parents will educate themselves about how their choices for their own children will affect other, often very vulnerable children and consider their responsibilities toward all children high in their hearts and minds as they exercise their rights to make their decisions.”

Rep. Atkins of Winooski explained his vote as follows:

“Mr. Speaker:

I vote ‘no’ to remove the philosophical exemption. If the child is in school, the school can set up a program and encourage families to become current in their shots. Education is the key. If a child is not in school, we have no control and our kids will still play together thus increasing the risk of contamination.”

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

The fundamental issue before us is whether public health protection requires removal of an exemption that allows parents to make their own decision about the cost-benefit of vaccines. I am far from convinced that it does. However, the alternative is the underlying amendment that directly states that the failure to complete vaccinations does increase risk to others, yet says we will permit those decisions regardless. That I cannot support.”

Rep. Poirier of Barre City explained his vote as follows:

“Mr. Speaker:

I am disappointed with the vote, but I appreciate the spirit of the debate.”

Rep. Waite-Simpson of Essex explained her vote as follows:

“Mr. Speaker:

If Vermont's vaccination rates do not increase as a result of our additional outreach and education, I'll be the first one to suggest removing the philosophical exemption. But we first need to try this less intrusive and less offensive option. Once we remove a civil liberty, it will likely never return."

Rep. Wizowaty of Burlington explained her vote as follows:

"Mr. Speaker:

It seems clear most of us share the goal of increasing the number of people – children and adults – who are immunized against infectious diseases. I would honestly prefer we have no religious or philosophical exemption. But since we do, I'm afraid that the conversation has become so polarized that removing the philosophical exemption at this point may have the opposite effect, hardening parents' positions and potentially driving them further away from the health care system. I will put my faith instead in greater education."

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Health Care? **Rep. Fisher of Lincoln** moved to amend the recommendation of proposal of amendment as follows:

First: in Sec. 1, 18 V.S.A. § 1121(c), by adding a second sentence to read:

"Notwithstanding section 1120 of this title, for the purposes of this subsection only, the term "child care facility" shall exclude a family day care home licensed or registered under 33 V.S.A. chapter 35."

Second: in Sec. 2, 18 V.S.A. § 1122, by adding a subsection (c) to read:

(c) A form signed pursuant to subdivision (a)(3) of this section and the fact that such a form was signed shall not be:

(1) construed to create or deny civil liability for any person; or

(2) admissible as evidence in any civil proceeding.

Which was agreed to.

Thereupon, the report of the committees on Health Care, as amended, and Appropriations agreed to and third reading was ordered.

Adjournment

At six o'clock and forty-five minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, April 13, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Meg Donahue Davis, Poet from Northfield, VT.

**Third Reading; Bill Passed in Concurrence
With Proposals of Amendment**

S. 199

Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program

Was taken up and read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Pearson of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 125. Nays, 4.

Those who voted in the affirmative are:

Acinapura of Brandon	Conquest of Newbury	Frank of Underhill
Ancel of Calais	Copeland-Hanzas of	French of Shrewsbury
Andrews of Rutland City	Bradford	French of Randolph
Atkins of Winooski	Courcelle of Rutland City	Gilbert of Fairfax
Bartholomew of Hartland	Crawford of Burke	Grad of Moretown
Batchelor of Derby	Dakin of Chester	Greshin of Warren
Botzow of Pownal	Davis of Washington	Haas of Rochester
Bouchard of Colchester	Devereux of Mount Holly	Heath of Westford
Branagan of Georgia	Dickinson of St. Albans	Hebert of Vernon
Browning of Arlington	Town	Helm of Fair Haven
Burditt of West Rutland *	Donaghy of Poultney	Higley of Lowell
Buxton of Tunbridge	Donovan of Burlington	Hooper of Montpelier
Campion of Bennington	Eckhardt of Chittenden	Howrigan of Fairfield
Canfield of Fair Haven	Edwards of Brattleboro	Hubert of Milton
Cheney of Norwich	Ellis of Waterbury	Jerman of Essex
Christie of Hartford	Emmons of Springfield	Jewett of Ripton
Clark of Vergennes	Evans of Essex	Johnson of Canaan
Clarkson of Woodstock	Fisher of Lincoln	Keenan of St. Albans City

Kilmartin of Newport City	McFaun of Barre Town	Sharpe of Bristol
Kitzmiller of Montpelier	Mook of Bennington	Shaw of Pittsford
Klein of East Montpelier	Moran of Wardsboro	Smith of New Haven
Koch of Barre Town *	Mrowicki of Putney	South of St. Johnsbury
Krebs of South Hero	Munger of South Burlington	Spengler of Colchester
Krowinski of Burlington	Myers of Essex	Stevens of Waterbury
Kupersmith of South Burlington	Nuovo of Middlebury	Stevens of Shoreham
Larocque of Barnet	Olsen of Jamaica	Strong of Albany
Lawrence of Lyndon	O'Sullivan of Burlington	Stuart of Brattleboro
Lenes of Shelburne	Partridge of Windham	Sweaney of Windsor
Leriche of Hardwick	Pearce of Richford	Taylor of Barre City
Lewis of Derby	Pearson of Burlington	Toll of Danville
Lippert of Hinesburg	Peaslee of Guildhall	Townsend of Randolph
Lorber of Burlington	Peltz of Woodbury *	Trieber of Rockingham
Macaig of Williston	Perley of Enosburgh	Turner of Milton
Malcolm of Pawlet	Poirier of Barre City	Waite-Simpson of Essex
Manwaring of Wilmington	Potter of Clarendon	Webb of Shelburne
Marcotte of Coventry	Pugh of South Burlington	Wilson of Manchester
Marek of Newfane	Ralston of Middlebury	Winters of Williamstown
Martin of Springfield	Ram of Burlington	Wizowaty of Burlington
Martin of Wolcott	Reis of St. Johnsbury	Woodward of Johnson
Masland of Thetford	Russell of Rutland City *	Wright of Burlington
McAllister of Highgate	Savage of Swanton	Yantachka of Charlotte
McCullough of Williston	Scheuermann of Stowe	Zagar of Barnard
	Shand of Weathersfield	

Those who voted in the negative are:

Donahue of Northfield	Komline of Dorset
Fagan of Rutland City	Young of Glover

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Corcoran of Bennington	Lewis of Berlin
Bissonnette of Winooski	Deen of Westminster	McNeil of Rutland Town
Bohi of Hartford	Degree of St. Albans City	Miller of Shaftsbury
Brennan of Colchester	Head of South Burlington	Morrissey of Bennington
Burke of Brattleboro	Howard of Cambridge	O'Brien of Richmond
Condon of Colchester	Johnson of South Hero	Till of Jericho
Consejo of Sheldon	Lanpher of Vergennes	

Rep. Burditt of West Rutland explained his vote as follows:

“Mr. Speaker:

Our best and first option to raise our children and make decisions for them is their parents. This bill is a small piece ensuring that.”

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

I remember a debate we had in 1998 concerning involuntary medication of mental health patients. I remember a debate about five years ago concerning death with dignity. And I will long remember the debate we had on this bill yesterday afternoon.

What all three of those debates had in common is that there was no pressure by party leadership to vote one way or another. Each member felt free to participate in the debate and to vote his or her conscience, representing his or her constituents to the best extent possible. Members who seldom speak on the floor participated in the debate yesterday.

This is the Vermont House of Representatives at its best and the way we should function every day.

Although I was on the losing side of the major issue of the day, I appreciate all of the views expressed by the various members, as well as the differing votes cast. We divided every which way, with close friendly and partisan allies voting differently, all in a spirit of mutual respect.

It makes me proud to be a member of this body.”

Rep. Peltz of Woodbury explained his vote as follows:

“Mr. Speaker:

I respect my doctor’s advice as my daughter respects hers. My doctor had serious concerns about losing connection with patients who use the philosophical exemption.

My daughter respects her doctor’s advice and has my two granddaughters fully immunized.”

Rep. Russell of Rutland City explained his vote as follows:

“Mr. Speaker:

I vote ‘yes’ in a strong belief that education is key and thank the Health Committee for fully vetting this subject.”

Bill Amended; Third Reading Ordered

H. 762

Rep. Botzow of Pownal, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to workers’ compensation and unemployment compensation

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. § 1205 is amended to read:

§ 1205. CLASSIFICATION OF CLAIMS

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the executor or administrator shall make payment in the following order:

(1) costs and expenses of administration;

(2) reasonable funeral, burial, and headstone expenses, and perpetual care, not to exceed \$3,800.00 exclusive of governmental payments, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him or her;

(3) all outstanding wages due employees which have been earned within three months prior to the death of the decedent, not to exceed \$300.00 to each claimant of the decedent;

(4) all other claims; including the balance of wages due but unpaid under subdivision (3) of this subsection.

* * *

Sec. 2. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any person having employees doing and transacting business within the state shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of such payment.

(2) After giving written notice to the employees, any person having employees doing and transacting business within the state may, notwithstanding subdivision (1) of this subsection, pay ~~bi-weekly~~ biweekly or ~~semi-monthly~~ semimonthly in lawful money or checks, each employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

(3) Any person having employees within the state who fails to make timely payment upon separation from employment in accordance with this section may be assessed an administrative penalty of up to \$100.00 for each day that wages remain unpaid, not to exceed \$500.00 per employee. Notice and opportunity for hearing under this section shall be in accordance with 3 V.S.A. chapter 25.

* * *

Sec. 3. 21 V.S.A. § 348 is added to read:

§ 348. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

(1) The employee lodged a complaint of a violation of this subchapter.

(2) The employee has cooperated with the commissioner or commissioner's designee in an investigation of a violation of this subchapter.

(3) The employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the civil division of the superior court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 4. 21 V.S.A. § 397 is added to read:

§ 397. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

(1) The employee lodged a complaint of a violation of this subchapter.

(2) The employee has cooperated with the commissioner or commissioner's designee in an investigation of a violation of this subchapter.

(3) The employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the civil division of the superior court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 5. 21 V.S.A. § 398 is added to read:

§ 398. NOTICE TO PERSONS RECEIVING REMUNERATION AS AN
INDEPENDENT CONTRACTOR

(a) Every employer shall post in a prominent and accessible place on the site where work is performed a legible statement, provided by the commissioner, that describes the responsibility of independent contractors to pay taxes required by state and federal law, the rights of employees to workers' compensation, unemployment benefits, minimum wage, overtime and other federal and state workplace protections, and the protections against retaliation and the penalties in this title if the independent contractor fails to properly classify an individual as an employee. This notice shall also contain contact information for individuals to file complaints or inquire with the commissioner about employment classification status. This information shall be provided in English or other languages required by the commissioner. The posted statement shall be constructed of materials capable of withstanding adverse weather conditions.

(b) Within 30 days of the effective date of this section, the commissioner shall create the notice described in subsection (a) of this section and post the notice on the department's website for downloading by hiring entities.

(c) Employers who violate this section shall be subject to an administrative penalty of up to \$100.00 per violation.

Sec. 6. 21 V.S.A. § 603 is amended to read:

§ 603. WITNESSES, OATHS, BOOKS, PAPERS, RECORDS

(a) So far as it is necessary in his or her examinations; or investigations and in the determination of matters within his or her jurisdiction, the commissioner shall have power to subpoena witnesses, administer oaths, and to demand the production of books, papers, records, and documents for his or her examination. Additionally, the commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations enter and inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of this chapter. The employer shall make the employees available to the department on the day of inspection by the commissioner. The commissioner or designee shall inform the employer of his or her right to refuse entry. If entry is refused, the commissioner may apply to the civil division of the superior court for an order to enforce the rights given the commissioner under this section.

* * *

Sec. 7. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; STOP WORK ORDERS

* * *

(b) Stop-work orders. If an employer fails to comply with the provisions of section 687 of this title after investigation by the commissioner, the commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. If the commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public, the commissioner may permit work to continue until the immediate threat to public safety or health is removed. The commissioner shall document the reasons for permitting work to continue, and the document shall be available to the public. In addition, the employer shall be assessed an administrative penalty of not more than \$250.00 for every day that the employer fails to secure workers' compensation coverage after the commissioner issues an order to obtain insurance and may also be assessed an administrative penalty of not more than \$250.00 for each employee for every day that the employer fails to secure workers' compensation coverage as required in section 687 of this title. When a stop-work order is issued, the commissioner shall post a notice at a conspicuous place on the work site of the employer informing the employees that their employer failed to comply with the provisions of section 687 of this title and that work at the work site has been ordered to cease until workers' compensation insurance is secured. An employer that fails to comply with a stop-work order may be enjoined from employing individuals in employment as defined in this chapter, upon complaint of the commissioner in the civil division of the superior court. The stop-work order shall be rescinded as soon as the commissioner determines that the employer is in compliance with section 687 of this title. An employer against whom a stop-work order has been issued, or who has not been in compliance with section 687 of this title, unless the commissioner determines that the failure to comply was inadvertent or excusable is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for a period of up to three years following the date of the issuance of the stop-work order, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, as appropriate. Either the secretary or the commissioner, as appropriate, shall be consulted in any contest of the prohibition of the employer from contracting with the state or its subdivisions. The consultation may be informal and shall occur within ten days of a referral by the commissioner. The outcome of the referral shall be documented.

* * *

Sec. 8. 21 V.S.A. § 708 is amended to read:

§ 708. PENALTY FOR FALSE REPRESENTATION

(a) Action by the commissioner of labor. A person who ~~willfully~~ purposefully makes a false statement or representation, ~~for the purpose of obtaining to obtain~~ any benefit or payment under the provisions of this chapter, either for herself or himself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00, and shall forfeit all or a portion of any right to compensation under the provisions of this chapter, as determined to be appropriate by the commissioner after a determination by the commissioner that the person has ~~willfully~~ made a false statement or representation of a material fact. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for up to three years following the date the employer was found to have made a false statement or misrepresentation of a material fact, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, ~~as appropriate. Either the secretary or the commissioner, as appropriate, shall be consulted in any contest relating to the prohibition of the employer from contracting with the state or its subdivisions.~~ The consultation may be informal and shall occur within ten days of a referral by the commissioner. The outcome of the referral shall be documented.

(b) ~~When~~ In addition to penalties assessed pursuant to subsection (a) of this section, when the department of labor has sufficient reason to believe that an employer has made a false statement or representation for the purpose of obtaining a lower workers' compensation premium, the department shall refer the alleged violation to the commissioner of banking, insurance, securities, and health care administration for the commissioner's consideration of enforcement pursuant to 8 V.S.A. § 3661(c).

* * *

Sec. 9. 21 V.S.A. § 1101 is amended to read:

§ 1101. APPRENTICESHIP DIVISION AND COUNCIL

The apprenticeship division and state apprenticeship council, hereinafter referred to as the "council," shall be located within the department of labor. The commissioner of labor shall supervise the work of the division, and shall be the chair of the council. The council shall consist of ~~10~~ 12 members, four ex officio members and ~~six~~ eight members who shall be appointed by the governor. Of the ex officio members, one shall be the commissioner of labor, or designee, one shall be the commissioner of public safety, or designee, one shall be the commissioner of education or designee, and one shall be the

director of the apprenticeship division who shall act as secretary of the council without vote. The council shall be composed of persons familiar with apprenticeable occupations. Of the ~~appointive~~ appointed members, three shall be individuals who ~~on account of previous vocation, employment, occupation, or affiliation can be classed as~~ represent employers and ~~three, three~~ shall be individuals who ~~on account of previous vocation, employment, occupation, or affiliation can be classed as employees~~ represent employees or employee organizations, and two shall be members of the public. Appointment of the employer and the employee members shall be made for the term of three years except the employer and employee members first appointed shall be appointed for the term of one, two, and three years respectively. The governor shall annually designate one member of the council as chair. Each member of the council who is not a salaried official or employee of the state shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

Sec. 10. 21 V.S.A. § 1301a is amended to read:

§ 1301a. DEPARTMENT OF LABOR; COMPOSITION

The department of labor, created by ~~section 3 V.S.A. § 212 of Title 3,~~ shall consist of a commissioner of labor, the Vermont employment security board, the Vermont workforce development division, the economic and labor market information division, the workforce development council, the unemployment insurance and wages division, and the workers' compensation and safety division. The chair of the employment security board shall be the commissioner of labor ex officio. The deputy commissioner of labor or a designee chosen by the commissioner may serve as chair in the absence of the commissioner as the commissioner's designee.

Sec. 11. 21 V.S.A. § 1307 is amended to read:

§ 1307. COMMISSIONER OF LABOR, DUTIES AND POWERS OF

The commissioner of labor shall administer this chapter. The commissioner may employ such persons, make such expenditures, require such reports, make such investigations and take such other action as he or she considers necessary or suitable to that end. In the discharge of his or her duties imposed by this chapter, the commissioner may administer oaths, take depositions, certify to official acts and subpoena witnesses and compel the production of books, papers, correspondence, memoranda, and other records necessary and material to the administration of this chapter. Additionally, the commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations enter and inspect any place of business or employment, question any employees, and investigate any facts,

conditions, or matters necessary and material to the administration of this chapter. The employer shall make the employees available to the department on the day of inspection by the commissioner. The commissioner or designee shall inform the employer of his or her right to refuse entry. If entry is refused, the commissioner may apply to the civil division of the superior court for an order to enforce the rights given the commissioner under this section.

Sec. 12. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

* * *

(c) The person liable under this section shall repay such amount to the commissioner for the fund. In addition to the repayment, if the commissioner finds that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits. Such amount may be collectible by civil action in a Vermont district or superior court, in the name of the commissioner. ~~No action shall be commenced for the collection of such amount more than five years after the date of such determination under this section or the final decision confirming the liability of such person on an appeal from such determination.~~

(d) In any case in which under this section a person is liable to repay any amount to the commissioner for the fund, the commissioner may withhold, in whole or in part, any future benefits payable to such person, and credit such withheld benefits against the amount due from such person until it is repaid in full, less any penalties assessed under subsection (c) of this section. ~~No benefits shall be withheld after five years from the date of such determination or the date of the final decision confirming the liability of such person on an appeal from such determination.~~

(e) In addition to the foregoing, when it is found by the commissioner that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits and in the event the person is not prosecuted under section 1368 of this title and penalty provided in section 1373 of this title is not imposed, the person shall be disqualified and shall not be entitled to receive benefits to which he or she would otherwise be entitled after the determination for such number of weeks not exceeding 26 as the commissioner shall deem just, ~~provided, however, that no benefits shall be denied to a claimant because of such determination after three years from the date thereof or the date of final decision on an appeal from such determination.~~ The notice of determination shall also specify the period of disqualification imposed hereunder.

* * *

Sec. 13. 21 V.S.A. § 1451 is amended to read:

§ 1451. DEFINITIONS

For the purpose of this subchapter:

(1) “Affected unit” means a specific plan, department, shift, or other definable unit consisting of not less than five employees to which an approved short-time compensation plan applies.

(2) “Short-time compensation” or “STC” means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan as distinguished from the unemployment benefits otherwise payable under the conventional unemployment compensation provisions of this chapter.

(3) “Short-time compensation plan” means a plan of an employer under which there is a reduction in the number of hours worked by employees of an affected unit rather than temporary layoffs. The term “temporary layoffs” for this purpose means the total separation of one or more workers in the affected unit for an indefinite period expected to last for more than two months but not more than six months.

(4) “Short-time compensation employer” means an employer who has one or more employees covered by an approved “Short-Time Compensation Plan.” ~~Both employers with experience rating records and employers who make payments in lieu of tax contributions to the UI Trust Fund may become short-time compensation employers.~~ “Short-time compensation employer” includes an employer with experience-rating records and an employer who makes payments in lieu of tax contributions to the unemployment compensation trust fund and that meets the following:

(A) Has five or more employees covered by an approved short-time compensation plan.

(B) Is not delinquent in the payment of contributions or reimbursement, or in the reporting of wages.

(C) Is not a negative balance employer. For the purposes of this section, a negative balance employer is an employer who has for three or more consecutive calendar years paid more in unemployment benefits to its employees than it has contributed to its unemployment insurance account. In the event that an employer has been a negative balance for three consecutive years, the employer shall be ineligible for participation unless the

commissioner grants a waiver based upon extenuating economic conditions or other good cause.

(5) "Usual weekly hours of work" means the normal hours of work for full-time and regular part-time employees in the affected unit when that unit is operating on its normally full-time basis but not less than 30 hours and not to exceed 40 hours and not including overtime.

(6) "Unemployment compensation" means the unemployment benefits payable under this chapter other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(7) "Fringe benefits" means benefits, including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

(8) "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

(9) "Seasonal employment" means employment in an industry in which because of the seasonal nature of the industry it is customary to operate only during a regularly recurring period or periods of fewer than 26 weeks in a calendar year.

Sec. 14. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

An employer wishing to participate in an STC program shall submit a department of labor electronic application or a signed written short-time compensation plan to the commissioner for approval. The commissioner may approve an STC plan only if the following criteria are met:

(1) the plan identifies the specified affected units to which it applies;

(2) the employees in the affected unit or units are identified by name, Social Security number, and by any other information required by the commissioner;

(3) the plan specifies any impact on outlines to the commissioner the extent to which fringe benefits, including health insurance, of employees participating in the plan may be reduced, which shall be factored into the evaluation of the business plan for resolving the conditions that lead to the need for the STC plan;

(4) the usual total weekly hours of work for employees in the affected unit or units are reduced by not less than 20 percent and not more than 50 percent;

(5) the plan certifies that the aggregate reduction in work hours is in lieu of temporary total layoffs of one or more workers which would have resulted in an equivalent reduction in work hours and which the commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation;

(6) the plan certifies that the STC employer will notify the department within 24 hours after any layoff of an employee, at which time the commissioner shall have the right to terminate the STC plan;

(7) the identified workweek reduction is applied consistently throughout the duration of the plan unless otherwise approved by the department;

~~(6)~~(8) the plan applies to at least 10 percent of the employees in the affected unit, and when applicable determined to be applicable by the commissioner applies to all affected employees of the unit equally;

~~(7)~~(9) the plan will not subsidize seasonal employers during the off-season, nor subsidize employers who have traditionally used part-time employees or intermittent employment;

~~(8)~~(10) the employer agrees to maintain records relative to the plan for a period of three years and furnish reports relating to the proper conduct of the plan and agrees to allow the commissioner or his or her authorized representatives access to all records necessary to verify the plan prior to approval and, after approval, to monitor and evaluate application of the plan;

~~(9)~~(11) the plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no bargaining unit, the employer specifies how he or she will notify the employees in the affected group and work with them to implement the program once the plan is approved; and

~~(10)~~(12) in addition to subdivisions (1) through ~~(9)~~(11) of this section, the commissioner shall take into account any other factors which may be pertinent to the approval and proper implementation of the plan.

Sec. 15. 21 V.S.A. § 1453 is amended to read:

§ 1453. APPROVAL OR REJECTION; RESUBMISSION

The commissioner shall approve or reject a plan in writing within 30 days of its receipt, and in the case of rejection shall state the reasons therefor. The

reasons for rejection shall be final and nonappealable, but the employer shall be allowed to submit another plan for approval, that addresses the reasons that led to the rejection of the original plan.

Sec. 16. 21 V.S.A. § 1454 is amended to read:

§ 1454. EFFECTIVE DATE; DURATION

A plan shall be effective on the date specified in the plan or on a date mutually agreed upon by the employer and the commissioner. It shall expire at the end of the sixth full calendar month after its effective date or on the date specified in the plan if such date is earlier; provided, that the plan is not previously revoked by the commissioner; or on the effective date of any transfer of ownership of the legal business entity. If a plan is revoked or terminated by the commissioner, it shall terminate on the date specified in the commissioner's written order of revocation. No employer shall be eligible for a short-time compensation plan that results in an employee receiving benefits in excess of 26 times the amount of regular unemployment benefits payable to such individual for a week of total unemployment.

Sec. 17. 21 V.S.A. § 1458 is amended to read:

§ 1458. SHORT-TIME COMPENSATION BENEFITS

* * *

(f)(1) If an individual works in the same week for both the short-time employer and another employer and his or her combined hours of work for both employers are equal to or greater than 81 percent of the usual hours of work with the short-time employer, he or she shall not be entitled to benefits under these short-time provisions or the unemployment compensation provisions.

(2) If an individual works in the same week for both the short-time employer and another employer and his or her combined hours of work for both employers are equal to or less than 80 percent of the usual hours of work for the short-time employer, the benefit amount payable for that week shall be the weekly unemployment compensation amount reduced by the same percentage that the combined hours are of the usual hours of work. A week for which benefits are paid under this provision shall count as a week of short-time compensation.

(3) An individual who does not work during a week for the short-time employer, and is otherwise eligible, shall be paid his or her full weekly unemployment compensation benefit amount under the provisions of the

regular unemployment compensation program. Such a week shall not be counted as a week for which short-time compensation benefits were received.

(4) An individual who does not work the short-time employer's identified workweek reduction hours as certified by the application due to the use of paid vacation or personal time shall be paid benefits for the week under the partial unemployment compensation provisions of the regular unemployment compensation program.

~~(4)~~(5) An individual who does not work for the short-time employer during a week but works for another employer and is otherwise eligible, shall be paid benefits for that week under the partial unemployment compensation provisions of the regular UI program. Such a week shall not be counted as a week with respect to which STC benefits were received.

Sec. 18. 33 V.S.A. § 4110 is amended to read:

§ 4110. EMPLOYER OBLIGATIONS

* * *

(c) As used in this section:

(1) "Employee" ~~means:~~

(A) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(B) does not include an employee of a federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to this section with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(2) "Employer" has the meaning given such term in Section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

(3) "First date of employment" is the first day services are performed for compensation as a new hire.

~~(4) "New hire" means an employee for whom a W-4 filing is required and whose wages have not been reported by the filing employer to the department of labor during the last reporting quarter~~ means an employee who:

(A) has not previously been employed by the employer; or

(B) was previously employed by the employer but has been separated from that employment for at least 60 consecutive days.

Sec. 19. 21 V.S.A. § 1340a is added to read:

§ 1340a. SELF-EMPLOYMENT ASSISTANCE PROGRAM

(a) The commissioner may establish a pilot project for a self-employment assistance project based on the criteria outlined in this section for a period of up to two years, provided that it conforms to state and federal unemployment law. The commissioner may terminate the pilot program with approval of the secretary of administration and notice to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs in the event that it presents unintended adverse consequences to the unemployment trust fund. The commissioner may allow up to 20 participants per year, and each individual may participate for up to 26 weeks as determined by the commissioner.

(b) For purposes of this section:

(1) “Full-time basis” means that the individual is devoting such amount of time as is determined by the commissioner to be necessary to establish a business which will serve as a full-time occupation for that individual.

(2) “Regular benefits” has the same meaning as in subdivision 1421(5) of this title.

(3) “Self-employment assistance activities” means activities approved by the commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.

(4) “Self-employment assistance allowance” means an allowance payable in lieu of regular benefits from the unemployment compensation fund to an individual who meets the requirements of this section until such time as the employee’s net income is determined by the commissioner, in consultation with the business advisor, to be at least 150 percent of his or her regular weekly benefit for a period of six consecutive weeks.

(5) “Self-employment assistance program” means a program under which an individual who meets the requirements of subsection (e) of this section is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

(c) The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable under this title.

(d) The maximum amount of the self-employment assistance allowances paid under this section may not exceed the maximum amount of benefits established under section 1340 of this title with respect to any benefit year.

(e)(1) An individual may receive a self-employment assistance allowance if that individual:

(A) Is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in subdivisions (A) and (B) of subdivision (2) of this subsection;

(B) is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(C) has been accepted into a program approved by the commissioner that will provide self-employment assistance activities, including but not limited to regular counseling and direction from a business advisor;

(D) is actively engaged in a full-time basis in activities, which may include training, related to establishing a business and becoming self-employed; and

(E) has filed a weekly claim for the self-employment assistance allowance and provided the information the commissioner prescribes.

(2) A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits under this chapter, except:

(A) the requirements of section 1343 of this title, relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual;

(B) the individual is not considered to be self-employed pursuant to subdivision 1301(24) of this title;

(C) an individual who meets the requirements of this section shall be considered to be unemployed under section 1338 of this title; and

(D) an individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed shall be disqualified from receiving an allowance for the week the failure occurs.

(f) The commissioner may approve not more than 20 persons each year during this pilot project to participate in this program and shall ensure that the aggregate number of individuals receiving a self-employment assistance

allowance at any time does not exceed five percent of the number of individuals receiving regular benefits at that time.

(g) The self-employment assistance allowance shall not be charged to an employer in accordance with section 1325 of this title.

(h) The commissioner may adopt rules to implement this section.

Sec. 20. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(12) "Public employment" means the following:

* * *

(K) other municipal workers, including volunteer firefighters and rescue and ambulance ~~squads~~ services while acting ~~in the line of duty~~ in any capacity under the direction and control of the fire department or rescue or ambulance service, after the governing officials of such municipal body so vote;

* * *

(L) members of any regularly organized private volunteer fire department while acting ~~in the line of duty~~ any capacity under the direction and control of the fire department after election by the organization to have its members covered by this chapter;

(M) members of any regularly organized private volunteer rescue or ambulance ~~squad~~ service while acting ~~in the line of duty~~ any capacity under the direction and control of the rescue or ambulance service after election by the organization to have its members covered by this chapter;

* * *

Sec. 21. 21 V.S.A. chapter 23 is added to read:

CHAPTER 23. SOLE CONTRACTOR AUTHORIZATION PROCESS

§ 1801. PURPOSE

(a) An individual who seeks to work as the sole operator of his or her own business and who can meet the standards and criteria set forth in this chapter may voluntarily request an authorization by the department of labor allowing him or her to operate independently and without the benefits and protections

afforded employees under chapters 9 and 17 of this title when working within the scope of the sole contractor authorization.

(b) The sole contractor authorization is limited to activities that are within the scope of the certification applied for by the individual. If an authorized sole contractor engages in activities outside the scope of the authorization, the sole contractor shall be presumed to be the statutory employee of the hiring entity.

(c) This chapter is not intended to change the existing laws governing employees and employers. The chapter applies only to individuals that have received a sole contractor authorization.

(d) Nothing in this chapter shall prohibit an individual from working as an independent contractor without the sole contractor authorization, provided the individual meets the test for an independent contractor under law.

§ 1802. DEFINITIONS

For purposes of this chapter:

(1) “Commissioner” means the commissioner of labor or designee.

(2) “Department” means the department of labor.

(3) “Hiring entity” means any person hiring an authorized sole contractor to perform work.

(4) “Sole contractor” means an individual who is approved by the authorization process established in section 1806 of this chapter. A sole contractor may be an individual, a single-member limited liability company, or a single shareholder corporation.

(5) “Sole contractor authorization review board” means the board established pursuant to this chapter that is responsible for reviewing applications from individuals seeking sole contractor status.

§ 1803. SOLE CONTRACTOR CRITERIA

(a) The authorization review board shall determine if an individual is eligible for sole contractor status. An individual operating an existing business or starting a new business and seeking authorization shall provide the board with information demonstrating that he or she meets the sole contractor criteria. The applicant shall provide:

(1) A notarized statement from the individual seeking authorization affirming that he or she has not been coerced into falsely claiming to be a sole contractor.

(2) Possession of a federal employer identification number (FEIN) that is used for federal tax reporting purposes.

(3) Possession of a Social Security number or a work visa.

(4) Proof of registration with the Vermont secretary of state, either as a single individual with a trade name or as a single member LLC or single shareholder corporation.

(5) An affidavit attesting that he or she is and will be free to control and direct his or her work, hours of work, and the means and manner of the performance of such work, subject only to the broad framework of the project goals and completion date.

(6) An affidavit attesting that he or she has no employees or assistants and will not have any employees or assistants as a sole contractor, whether paid or unpaid, and does not engage in any joint ventures or associations with other sole contractors to perform work.

(7) Demonstrates that he or she is in good standing regarding any outstanding child support or taxes.

(b) The applicant shall provide additional information demonstrating that he or she meets the sole contractor criteria, which may include:

(1) A demonstrated history of having his or her own business, including evidence of tax returns, recurring business expenditures such as equipment purchases, shop rent, or charge accounts for supplies which establish that he or she is customarily engaged in an established trade or business.

(2) Proof that he or she works for multiple employers in the course of his or her business.

(3) Proof of past work, including written contracts or agreements, invoices, or competitive bids, on a per-job basis.

(4) Proof that he or she is fully and solely responsible for the work produced, possesses his or her own tools, equipment, and instruments of trade, and normally provides materials and supplies necessary to complete the work.

§ 1804. PRESUMPTION OF STATUS

(a) An individual who is authorized pursuant to this chapter shall not be presumed to be an employee when operating under the provisions of this chapter, and the entity hiring the sole contractor shall not be considered the statutory employer of the sole contractor. Notwithstanding this presumption, if the sole contractor is working for the employer or a subcontractor in a capacity that does not qualify as an individual sole contractor, then all statutory

provisions relating to unemployment, workers' compensation, wage and hour provisions, and employment practices shall apply.

(b) A hiring entity shall not hire multiple sole authorized contractors to do the same work on a project or at a job site.

§ 1805. COMPOSITION OF BOARD

An authorization review board is hereby established consisting of 11 members, five of whom shall represent labor, five of whom shall represent business to be appointed by the governor, and one who shall be an employee of the department appointed by the commissioner. Nominations for members for the review board shall be solicited from organizations representing employer organizations, trade associations, and employee organizations and from the commissioner of labor, as well as from a public notice conducted by the department of labor. The review board members appointed by the governor shall be appointed for a term of two years, with no member serving more than three consecutive terms.

§ 1806. BOARD REVIEW PROCESS

(a) Representatives from the board shall meet weekly in three-member panels at the direction of the commissioner, consisting of one member each representing labor and business and the department representative. The members of the panels shall rotate weekly.

(b) The board shall meet to review pending applications and may schedule in-person reviews with individuals seeking authorization. The board shall review documentation and information and take testimony from the applicants. The board's decision to grant authorization shall be based on the criteria established in this chapter. If additional information is necessary to render a decision, the applicant will be given sufficient time to submit such information. Once the board determines that it has sufficient information, it shall make a recommendation to the commissioner. The commissioner shall review the recommendation and make a decision within ten days. If additional information is needed, the commissioner may remand for additional information, which shall be provided to the commissioner within 14 days. The commissioner shall issue a decision based on the additional information within five days of its receipt. The failure to render a decision within the prescribed time limits shall not result in an individual receiving authorization.

§ 1807. APPEAL

An applicant may appeal a decision of the commissioner to the supreme court within 30 days of the date of the decision.

§ 1808. INFORMATION AND EDUCATION

(a) The commissioner of labor in consultation with the authorization review board shall conduct a comprehensive information and education campaign regarding the provisions of this chapter for a period of not less than 12 months upon instituting this authorization process and shall continue to provide regular information to the labor and business communities about the authorization program and the issues of misclassification and miscoding.

(b) The commissioner shall create and maintain an on-line sole contractor registry listing the names of currently authorized sole contractors and the names of individuals that had previously been certified.

(c) The department shall provide all employers notice and information of the provisions relating to sole contractor authorization and hiring. The department shall establish a simple method for employers utilizing sole contractors to acknowledge receipt of the information, including by electronic means. An employer shall not hire a sole contractor until acknowledging receipt of the information with the department. An employer hiring a sole contractor shall make the acknowledgment annually.

§ 1809. INVESTIGATION AND ENFORCEMENT

(a) The commissioner is authorized to investigate and enforce the provisions of this chapter, including whether a sole contractor or a hiring entity is in compliance with the provisions of this title, including workers' compensation, unemployment insurance compensation, wage and hour laws, and employment practices.

(b) Upon request, a sole contractor shall provide the department with books, records, or other documentation or evidence establishing his or her qualifications to be a sole contractor and evidence that all work performed as a sole contractor is performed in accordance with this chapter.

(c) Any person or entity found to have engaged in misrepresentation or fraudulent activities in relation to this chapter shall be listed on the department's website and debarment list.

§ 1810. PENALTIES

(a) A person who purposefully makes a false statement or representation to obtain or assist another to obtain sole contractor status may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00 and may lose the authorization for up to two years.

(b) A sole contractor who violates the terms and conditions of his or her authorization may, after notice and opportunity for hearing, be assessed an

administrative penalty of up to \$5,000.00 and may lose the authorization for up to one year.

(c) Any person or entity who coerces an employee or prospective employee into becoming a sole contractor for the purpose of avoiding its obligations under this title or Title 32 may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00.

(d) An administrative penalty issued pursuant to this section may be in addition to other penalties authorized by chapters 9 and 17 of this title.

(e) Administrative hearings shall be conducted in accordance with the Administrative Procedure Act, 3 V.S.A. § 801 et seq. Appeals from penalty assessment determinations shall be to the Vermont supreme court.

(f) Penalties collected under this section shall be utilized by the department to offset the expenses of the sole contractor authorization program.

§ 1811. FEES AND COSTS

(a) The application fee for a sole contractor authorization shall be \$100.00, which shall be deposited into a special fund within the department. The department shall utilize the funds to administer the sole contractor program, including for the purposes of providing a per diem and mileage reimbursement for review board members.

(b) The commissioner is authorized to hire and employ one limited service position for a term of three years for program administration. The program shall be funded by the fees and administrative penalties collected pursuant to this chapter and supplemented by the general fund when fees and penalties do not cover the full costs of the positions and program administration.

§ 1812. RULEMAKING

The commissioner may adopt rules to implement the provisions of this chapter.

Sec. 22. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this state unless the secretary of state has issued a certificate of operation to the owner or operator.

(b) The secretary of state shall issue a "certificate of operation" no later than 15 days before the amusement ride is first operated in the state, if the owner or operator submits all the following:

(1) Certificate of insurance in the amount of not less than \$1,000,000.00 which insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of \$100.00.

(3) Documentation that the owner has complied with 21 V.S.A. § 687. Upon receiving the documentation, the secretary of state shall forward a copy of the documentation to the department of labor.

(c) The certificate of operation shall be valid for one year from the date of issue, provided that the owner remains in compliance with the requirements of subsection (b) of this section.

(d) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride.

Sec. 23. INTERAGENCY AND DEPARTMENTAL TASK FORCE

(a) The agency of administration shall create an interagency and departmental task force to coordinate efforts to combat misclassification of workers and to ensure enforcement of all related laws and regulations. The task force shall be overseen by the department of labor and include the secretaries, commissioners, or designees of the following:

(1) The agency of administration.

(2) The agency of transportation.

(3) The department of buildings and general services.

(4) The department of labor.

(5) The department of banking, insurance, securities, and health care administration.

(6) The agency of human services.

(7) The department of taxes.

(8) The office of attorney general.

(9) The department of liquor control.

(10) Any other state licensing agency as determined by the commissioner of labor.

(b) The task force shall meet at least six times per year.

(c) The agency of administration shall enter into a memorandum of understanding with all state agencies to facilitate the coordination and investigation of misclassification and miscoding of workers, including, unless prohibited by state or federal law, the sharing of information concerning the names of businesses found to have misclassified or miscoded workers, the relevant investigation materials, and the number of investigations of misclassification and miscoding.

(d) The department of labor shall pursue entering into a common interest agreement with the United States Department of Labor and the Internal Revenue Service, and any willing states or federal agencies regarding the sharing of information regarding misclassification and miscoding of workers. The department shall notify the chairs of the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs before entering into a common interest agreement. The department shall consider whether the common interest agreement would result in the disclosure of an individual's personal information, or disclose information in violation of state or federal law.

(e) The department of labor shall report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs on the progress of the interagency and departmental task force, the memorandum of understanding, the status of the common interest agreement, and any other information regarding misclassification and miscoding annually by January 15 in 2013, 2014, and 2015.

Sec. 24. WORKERS' COMPENSATION PREMIUMS

(a) The department of banking, insurance, securities, and health care administration (BISHCA) in consultation with the department of labor shall study the issue of workers' compensation premiums increasing as a result of an employee completing a job-related safety course. BISHCA shall investigate how workers' compensation premiums can be decreased or kept at a steady rate for employees who receive job safety training.

(b) The department of banking, insurance, securities, and health care administration shall report its findings and any recommendations to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs no later than January 15, 2013.

Sec. 25. REPORT

The commissioner of labor shall report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs regarding the implementation and operation of the sole contractor authorization process. The report shall be made on or before January 15, 2013.

Sec. 26. SHORT-TIME COMPENSATION FUNDING

The commissioner of labor is hereby authorized to pursue federal funding for Vermont's short-time compensation program, if after an analysis of the eligibility requirements for receiving such funding, he or she concludes that doing so would be in the best interest of the state of Vermont.

Sec. 27. EFFECTIVE DATE

Sec. 12 (relating to nondisclosure or misrepresentation in order to receive unemployment benefits) of this act shall take effect on July 1, 2013. Sec. 18 (relating to employer obligations) of this act shall take effect on October 1, 2012.

Rep. Sharpe of Bristol, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Commerce and Economic Development, and when further amended as follows:

First: In Sec. 21, 21 V.S.A. § 1810, by striking subsection (f) in its entirety

Second: In Sec. 21, by striking 21 V.S.A. § 1811 and inserting in lieu thereof:

§ 1811. FEES AND COSTS

(a) The application fee for a sole contractor authorization shall be \$100.00, which shall be deposited into the sole contractor registry special fund. The authorization shall be valid for two years and may be renewed for subsequent two-year periods upon reapplication and payment of the fee. The department shall utilize the funds to administer the sole contractor program, including for the purpose of providing a per diem and mileage reimbursement for review board members.

(b) The commissioner is authorized to hire and employ one limited service position for a term of three years for program administration. The program shall be funded by the fees collected pursuant to this chapter and supplemented by the general fund when fees do not cover the full costs of the position and program administration.

(c) There is created a sole contractor registry special fund pursuant to 32 V.S.A. chapter 7, subchapter 5, to be expended by the commissioner consistent with the provisions of this section.

Rep. Keenan of St. Albans City, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committees on Commerce and Economic Development and Ways and Means and when further amended as follows:

By adding a new Sec. 27 to read:

Sec. 27. APPROPRIATION

The amount of \$40,000.00 is appropriated in fiscal year 2013 from the general fund to the department of labor to partially fund the one limited service position created in 21 V.S.A. § 1811 to administer the sole contractor authorization program.

and by renumbering the existing Sec. 27 to be Sec. 28.

Thereupon, **Rep. Botzow of Pownal** moved to substitute an amendment for the report of the committee on Commerce and Economic Development by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. § 1205 is amended to read:

§ 1205. CLASSIFICATION OF CLAIMS

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the executor or administrator shall make payment in the following order:

(1) costs and expenses of administration;

(2) reasonable funeral, burial, and headstone expenses, and perpetual care, not to exceed \$3,800.00 exclusive of governmental payments, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him or her;

(3) all outstanding wages due employees which have been earned within three months prior to the death of the decedent, not to exceed \$300.00 to each claimant of the decedent;

(4) ~~all other claims; including the balance of wages due but unpaid under subdivision (3) of this subsection.~~

* * *

Sec. 2. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any person having employees doing and transacting business within the state shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of such payment.

(2) After giving written notice to the employees, any person having employees doing and transacting business within the state may, notwithstanding subdivision (1) of this subsection, pay ~~bi-weekly~~ biweekly or ~~semi-monthly~~ semimonthly in lawful money or checks, each employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

(3) Any person having employees within the state who fails to make timely payment upon separation from employment in accordance with this section may be assessed an administrative penalty of up to \$100.00 for each day that wages remain unpaid, not to exceed \$500.00 per employee. Notice and opportunity for hearing under this section shall be in accordance with 3 V.S.A. chapter 25.

* * *

Sec. 3. 21 V.S.A. § 348 is added to read:

§ 348. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

(1) The employee lodged a complaint of a violation of this subchapter.

(2) The employee has cooperated with the commissioner or commissioner's designee in an investigation of a violation of this subchapter.

(3) The employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the civil division of the superior court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 4. 21 V.S.A. § 397 is added to read:

§ 397. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

(1) The employee lodged a complaint of a violation of this subchapter.

(2) The employee has cooperated with the commissioner or commissioner's designee in an investigation of a violation of this subchapter.

(3) The employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the civil division of the superior court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 5. 21 V.S.A. § 398 is added to read:

§ 398. NOTICE TO PERSONS RECEIVING REMUNERATION AS AN
INDEPENDENT CONTRACTOR

(a) Every employer shall post in a prominent and accessible place on the site where work is performed a legible statement, provided by the commissioner, that describes the responsibility of independent contractors to pay taxes required by state and federal law, the rights of employees to workers' compensation, unemployment benefits, minimum wage, overtime and other federal and state workplace protections, and the protections against retaliation and the penalties in this title if the independent contractor fails to properly classify an individual as an employee. This notice shall also contain contact information for individuals to file complaints or inquire with the commissioner about employment classification status. This information shall be provided in English or other languages required by the commissioner. If the posted statement is displayed outside it shall be constructed of materials capable of withstanding adverse weather conditions.

(b) Within 30 days of the effective date of this section, the commissioner shall create the notice described in subsection (a) of this section and post the notice on the department's website for downloading by hiring entities.

(c) Employers who violate this section shall be subject to an administrative penalty of up to \$100.00 per violation.

Sec. 6. 21 V.S.A. § 603 is amended to read:

§ 603. WITNESSES, OATHS, BOOKS, PAPERS, RECORDS

(a) So far as it is necessary in his or her examinations, or investigations and in the determination of matters within his or her jurisdiction, the commissioner shall have power to subpoena witnesses, administer oaths, and to demand the production of books, papers, records, and documents for his or her examination. Additionally, the commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations enter and inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of this chapter. The employer shall make the employees available to the department on the day of inspection by the commissioner. The commissioner or designee shall inform the employer of his or her right to refuse entry. If entry is refused, the commissioner may apply to the civil division of the superior court for an order to enforce the rights given the commissioner under this section.

* * *

Sec. 7. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; STOP WORK ORDERS

* * *

(b) Stop-work orders. If an employer fails to comply with the provisions of section 687 of this title after investigation by the commissioner, the commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. If the commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public, the commissioner may permit work to continue until the immediate threat to public safety or health is removed. The commissioner shall document the reasons for permitting work to continue, and the document shall be available to the public. In addition, the employer shall be assessed an administrative penalty of not more than \$250.00 for every day that the employer fails to secure workers' compensation coverage after the commissioner issues an order to obtain insurance and may also be assessed an administrative penalty of not more than \$250.00 for each employee for every day that the employer fails to secure workers' compensation coverage as required in section 687 of this title. When a stop-work order is issued, the commissioner shall post a notice at a conspicuous place on the work site of the employer informing the employees that their employer failed to comply with the provisions of section 687 of this title and that work at the work site has been ordered to cease until workers' compensation insurance is secured. An employer that fails to comply with a stop-work order may be enjoined from

employing individuals in employment as defined in this chapter, upon complaint of the commissioner in the civil division of the superior court. The stop-work order shall be rescinded as soon as the commissioner determines that the employer is in compliance with section 687 of this title. An employer against whom a stop-work order has been issued, or who has not been in compliance with section 687 of this title, unless the commissioner determines that the failure to comply was inadvertent or excusable is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for a period of up to three years following the date of the issuance of the stop-work order, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, as appropriate. Either the secretary or the commissioner, as appropriate, shall be consulted in any contest of the prohibition of the employer from contracting with the state or its subdivisions. The consultation may be informal and shall occur within ten days of a referral by the commissioner. The outcome of the referral shall be documented.

* * *

Sec. 7a. 8 V.S.A. § 3661 is amended to read:

§ 3661. CEASE AND DESIST POWERS; PROSECUTIONS AND
PENALTIES

* * *

(c) An employer who makes a false statement or representation that results in a lower workers' compensation premium, after notice and opportunity for hearing before the commissioner, may be assessed an administrative penalty of not more than \$20,000.00 in addition to any other appropriate penalty. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for up to three years following the date the employer was found to have made a false statement or misrepresentation, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, as appropriate. ~~Either the secretary or the commissioner, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the state or its subdivisions.~~ The consultation may be informal and shall occur within ten days of a referral by the commissioner. The outcome of the referral shall be documented.

* * *

Sec. 7b. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;
PENALTIES

* * *

(f)(1) Any employing unit or employer that fails to:

(A) File any report required by this section shall be subject to a penalty of \$100.00 for each report not received by the prescribed due dates.

(B) Properly classify an individual regarding the status of employment is subject to a penalty of not more than \$5,000.00 for each improperly classified employee. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for up to three years following the date the employer was found to have failed to properly classify, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, ~~as appropriate. Either the secretary or the commissioner, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the state or its subdivisions.~~ The consultation may be informal and shall occur within ten days of a referral by the commissioner. The outcome of the referral shall be documented.

* * *

Sec. 8. 21 V.S.A. § 708 is amended to read:

§ 708. PENALTY FOR FALSE REPRESENTATION

(a) Action by the commissioner of labor. A person who ~~willfully~~ purposefully makes a false statement or representation, ~~for the purpose of obtaining to obtain~~ any benefit or payment under the provisions of this chapter, either for herself or himself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00, and shall forfeit all or a portion of any right to compensation under the provisions of this chapter, as determined to be appropriate by the commissioner after a determination by the commissioner that the person has ~~willfully~~ made a false statement or representation of a material fact. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for up to three years following the date the employer was found to have made a false statement or misrepresentation of a material fact, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, ~~as appropriate. Either the secretary~~

~~or the commissioner, as appropriate, shall be consulted in any contest relating to the prohibition of the employer from contracting with the state or its subdivisions~~ The consultation may be informal and shall occur within ten days of a referral by the commissioner. The outcome of the referral shall be documented.

(b) ~~When~~ In addition to penalties assessed pursuant to subsection (a) of this section, when the department of labor has sufficient reason to believe that an employer has made a false statement or representation for the purpose of obtaining a lower workers' compensation premium, the department shall refer the alleged violation to the commissioner of banking, insurance, securities, and health care administration for the commissioner's consideration of enforcement pursuant to 8 V.S.A. § 3661(c).

* * *

Sec. 9. 21 V.S.A. § 1101 is amended to read:

§ 1101. APPRENTICESHIP DIVISION AND COUNCIL

The apprenticeship division and state apprenticeship council, hereinafter referred to as the "council," shall be located within the department of labor. The commissioner of labor shall supervise the work of the division, and shall be the chair of the council. The council shall consist of ~~40~~ 12 members, four ex officio members and ~~six~~ eight members who shall be appointed by the governor. Of the ex officio members, one shall be the commissioner of labor, or designee, one shall be the commissioner of public safety, or designee, one shall be the commissioner of education or designee, and one shall be the director of the apprenticeship division who shall act as secretary of the council without vote. The council shall be composed of persons familiar with apprenticeable occupations. Of the ~~appointive~~ appointed members, three shall be individuals who ~~on account of previous vocation, employment, occupation, or affiliation can be classed as~~ represent employers and ~~three~~ three shall be individuals who ~~on account of previous vocation, employment, occupation, or affiliation can be classed as employees~~ represent employees or employee organizations, and two shall be members of the public. Appointment of the employer and the employee members shall be made for the term of three years except the employer and employee members first appointed shall be appointed for the term of one, two, and three years respectively. The governor shall annually designate one member of the council as chair. Each member of the council who is not a salaried official or employee of the state shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

Sec. 10. 21 V.S.A. § 1301a is amended to read:

§ 1301a. DEPARTMENT OF LABOR; COMPOSITION

The department of labor, created by ~~section 3 V.S.A. § 212 of Title 3~~, shall consist of a commissioner of labor, the Vermont employment security board, the Vermont workforce development division, the economic and labor market information division, the workforce development council, the unemployment insurance and wages division, and the workers' compensation and safety division. The chair of the employment security board shall be the commissioner of labor ex officio. The deputy commissioner of labor or a designee chosen by the commissioner may serve as chair in the absence of the commissioner as the commissioner's designee.

Sec. 11. 21 V.S.A. § 1307 is amended to read:

§ 1307. COMMISSIONER OF LABOR, DUTIES AND POWERS OF

The commissioner of labor shall administer this chapter. The commissioner may employ such persons, make such expenditures, require such reports, make such investigations and take such other action as he or she considers necessary or suitable to that end. In the discharge of his or her duties imposed by this chapter, the commissioner may administer oaths, take depositions, certify to official acts and subpoena witnesses and compel the production of books, papers, correspondence, memoranda, and other records necessary and material to the administration of this chapter. Additionally, the commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations enter and inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of this chapter. The employer shall make the employees available to the department on the day of inspection by the commissioner. The commissioner or designee shall inform the employer of his or her right to refuse entry. If entry is refused, the commissioner may apply to the civil division of the superior court for an order to enforce the rights given the commissioner under this section.

Sec. 12. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

* * *

(c) The person liable under this section shall repay such amount to the commissioner for the fund. In addition to the repayment, if the commissioner finds that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, the person shall pay an

additional penalty of 15 percent of the amount of the overpaid benefits. Such amount may be collectible by civil action in a Vermont district or superior court, in the name of the commissioner. ~~No action shall be commenced for the collection of such amount more than five years after the date of such determination under this section or the final decision confirming the liability of such person on an appeal from such determination.~~

(d) In any case in which under this section a person is liable to repay any amount to the commissioner for the fund, the commissioner may withhold, in whole or in part, any future benefits payable to such person, and credit such withheld benefits against the amount due from such person until it is repaid in full, less any penalties assessed under subsection (c) of this section. ~~No benefits shall be withheld after five years from the date of such determination or the date of the final decision confirming the liability of such person on an appeal from such determination.~~

(e) In addition to the foregoing, when it is found by the commissioner that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits and in the event the person is not prosecuted under section 1368 of this title and penalty provided in section 1373 of this title is not imposed, the person shall be disqualified and shall not be entitled to receive benefits to which he or she would otherwise be entitled after the determination for such number of weeks not exceeding 26 as the commissioner shall deem just, ~~provided, however, that no benefits shall be denied to a claimant because of such determination after three years from the date thereof or the date of final decision on an appeal from such determination.~~ The notice of determination shall also specify the period of disqualification imposed hereunder.

* * *

Sec. 13. 21 V.S.A. § 1451 is amended to read:

§ 1451. DEFINITIONS

For the purpose of this subchapter:

(1) "Affected unit" means a specific plan, department, shift, or other definable unit consisting of not less than five employees to which an approved short-time compensation plan applies.

(2) "Short-time compensation" or "STC" means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan as distinguished from the unemployment benefits otherwise

payable under the conventional unemployment compensation provisions of this chapter.

(3) “Short-time compensation plan” means a plan of an employer under which there is a reduction in the number of hours worked by employees of an affected unit rather than temporary layoffs. The term “temporary layoffs” for this purpose means the total separation of one or more workers in the affected unit for an indefinite period expected to last for more than two months but not more than six months.

(4) “Short-time compensation employer” means an employer who has one or more employees covered by an approved “Short-Time Compensation Plan.” ~~Both employers with experience-rating records and employers who make payments in lieu of tax contributions to the UI Trust Fund may become short-time compensation employers.~~ “Short-time compensation employer” includes an employer with experience-rating records and an employer who makes payments in lieu of tax contributions to the unemployment compensation trust fund and that meets the following:

(A) Has five or more employees covered by an approved short-time compensation plan.

(B) Is not delinquent in the payment of contributions or reimbursement, or in the reporting of wages.

(C) Is not a negative balance employer. For the purposes of this section, a negative balance employer is an employer who has for three or more consecutive calendar years prior to applying for the STC plan paid more in unemployment benefits to its employees than it has contributed to its unemployment insurance account. In the event that an employer has been a negative balance employer for three consecutive years, the employer shall be ineligible for participation unless the commissioner grants a waiver based upon extenuating economic conditions or other good cause.

(5) “Usual weekly hours of work” means the normal hours of work for full-time and regular part-time employees in the affected unit when that unit is operating on its normally full-time basis but not less than 30 hours and not to exceed 40 hours and not including overtime.

(6) “Unemployment compensation” means the unemployment benefits payable under this chapter other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(7) "Fringe benefits" means benefits, including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

(8) "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

(9) "Seasonal employment" means employment with an employer who experiences at least a 20-percent difference between its highest level of employment during a particular season and its lowest level of employment during the off-season in each of the previous three years as reported to the department, or employment with an employer on a temporary basis during a particular season.

Sec. 14. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

An employer wishing to participate in an STC program shall submit a department of labor electronic application or a signed written short-time compensation plan to the commissioner for approval. The commissioner may approve an STC plan only if the following criteria are met:

- (1) the plan identifies the specified affected units to which it applies;
- (2) the employees in the affected unit or units are identified by name, Social Security number, and by any other information required by the commissioner;
- (3) the plan ~~specifies any impact on~~ outlines to the commissioner the extent to which fringe benefits, including health insurance, of employees participating in the plan may be reduced, which shall be factored into the evaluation of the business plan for resolving the conditions that lead to the need for the STC plan;
- (4) the usual total weekly hours of work for employees in the affected unit or units are reduced by not less than 20 percent and not more than 50 percent;
- (5) the plan certifies that the aggregate reduction in work hours is in lieu of temporary total layoffs of one or more workers which would have resulted in an equivalent reduction in work hours and which the commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation;

(6) the plan certifies that the STC employer will notify the department within 24 hours after any layoff of an employee, at which time the commissioner shall have the right to terminate the STC plan;

(7) the identified workweek reduction is applied consistently throughout the duration of the plan unless otherwise approved by the department;

(6)(8) the plan applies to at least 10 percent of the employees in the affected unit, and when applicable determined to be applicable by the commissioner applies to all affected employees of the unit equally;

(7)(9) the plan will not subsidize seasonal employers during the off-season, nor subsidize employers who have traditionally used part-time employees or intermittent employment;

(8)(10) the employer agrees to maintain records relative to the plan for a period of three years and furnish reports relating to the proper conduct of the plan and agrees to allow the commissioner or his or her authorized representatives access to all records necessary to verify the plan prior to approval and, after approval, to monitor and evaluate application of the plan;

(9)(11) the plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no bargaining unit, the employer specifies how he or she will notify the employees in the affected group and work with them to implement the program once the plan is approved; and

(10)(12) in addition to subdivisions (1) through (9)(11) of this section, the commissioner shall take into account any other factors which may be pertinent to the approval and proper implementation of the plan.

Sec. 15. 21 V.S.A. § 1453 is amended to read:

§ 1453. APPROVAL OR REJECTION; RESUBMISSION

The commissioner shall approve or reject a plan in writing within 30 days of its receipt, and in the case of rejection shall state the reasons therefor. The reasons for rejection shall be final and nonappealable, but the employer shall be allowed to submit another plan for approval, that addresses the reasons that led to the rejection of the original plan.

Sec. 16. 21 V.S.A. § 1454 is amended to read:

§ 1454. EFFECTIVE DATE; DURATION

A plan shall be effective on the date specified in the plan or on a date mutually agreed upon by the employer and the commissioner. It shall expire at the end of the sixth full calendar month after its effective date or on the date

specified in the plan if such date is earlier; provided, that the plan is not previously revoked by the commissioner; or on the effective date of any transfer of ownership of the legal business entity. If a plan is revoked or terminated by the commissioner, it shall terminate on the date specified in the commissioner's written order of revocation. No employer shall be eligible for a short-time compensation plan that results in an employee receiving benefits in excess of 26 times the amount of regular unemployment benefits payable to such individual for a week of total unemployment.

Sec. 17. 21 V.S.A. § 1458 is amended to read:

§ 1458. SHORT-TIME COMPENSATION BENEFITS

* * *

(f)(1) If an individual works in the same week for both the short-time employer and another employer and his or her combined hours of work for both employers are equal to or greater than 81 percent of the usual hours of work with the short-time employer, he or she shall not be entitled to benefits under these short-time provisions or the unemployment compensation provisions.

(2) If an individual works in the same week for both the short-time employer and another employer and his or her combined hours of work for both employers are equal to or less than 80 percent of the usual hours of work for the short-time employer, the benefit amount payable for that week shall be the weekly unemployment compensation amount reduced by the same percentage that the combined hours are of the usual hours of work. A week for which benefits are paid under this provision shall count as a week of short-time compensation.

(3) An individual who does not work during a week for the short-time employer, and is otherwise eligible, shall be paid his or her full weekly unemployment compensation benefit amount under the provisions of the regular unemployment compensation program. Such a week shall not be counted as a week for which short-time compensation benefits were received.

(4) An individual who does not work the short-time employer's identified workweek reduction hours as certified by the application due to the use of paid vacation or personal time shall be paid benefits for the week under the partial unemployment compensation provisions of the regular unemployment compensation program.

~~(4)~~(5) An individual who does not work for the short-time employer during a week but works for another employer and is otherwise eligible, shall

be paid benefits for that week under the partial unemployment compensation provisions of the regular UI program. Such a week shall not be counted as a week with respect to which STC benefits were received.

Sec. 18. 33 V.S.A. § 4110 is amended to read:

§ 4110. EMPLOYER OBLIGATIONS

* * *

(c) As used in this section:

(1) “Employee” ~~means~~:

(A) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(B) does not include an employee of a federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to this section with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(2) “Employer” has the meaning given such term in Section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

(3) “First date of employment” is the first day services are performed for compensation as a new hire.

(4) “New hire” means an employee ~~for whom a W-4 filing is required and whose wages have not been reported by the filing employer to the department of labor during the last reporting quarter~~ who:

(A) has not previously been employed by the employer; or

(B) was previously employed by the employer but has been separated from that employment for at least 60 consecutive days.

Sec. 18a. COMPLIANCE WITH UNITED STATES DEPARTMENT OF
LABOR

In the event that the United States secretary of labor determines that any provision of the short-time compensation program (21 V.S.A. chapter 19, subchapter 3) is not in conformance with 26 U.S.C. § 3306(v) as added by the federal Layoff Prevention Act of 2012, the provision shall be unenforceable.

Sec. 19. 21 V.S.A. § 1340a is added to read:

§ 1340a. SELF-EMPLOYMENT ASSISTANCE PROGRAM

(a) The commissioner may establish a pilot project for a self-employment assistance project based on the criteria outlined in this section for a period of up to two years, provided that it conforms to state and federal unemployment law. The commissioner may terminate the pilot program with approval of the secretary of administration and notice to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs in the event that it presents unintended adverse consequences to the unemployment trust fund. The commissioner may allow up to 20 participants per year, and each individual may participate for up to 26 weeks as determined by the commissioner.

(b) For purposes of this section:

(1) "Full-time basis" means that the individual is devoting such amount of time as is determined by the commissioner to be necessary to establish a business which will serve as a full-time occupation for that individual.

(2) "Regular benefits" has the same meaning as in subdivision 1421(5) of this title.

(3) "Self-employment assistance activities" means activities approved by the commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.

(4) "Self-employment assistance allowance" means an allowance payable in lieu of regular benefits from the unemployment compensation fund to an individual who meets the requirements of this section until such time as the employee's net income is determined by the commissioner, in consultation with the business advisor, to be at least 150 percent of his or her regular weekly benefit for a period of six consecutive weeks.

(5) "Self-employment assistance program" means a program under which an individual who meets the requirements of subsection (e) of this section is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

(c) The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable under this title.

(d) The maximum amount of the self-employment assistance allowances paid under this section may not exceed the maximum amount of benefits established under section 1340 of this title with respect to any benefit year.

(e)(1) An individual may receive a self-employment assistance allowance if that individual:

(A) Is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in subdivisions (A) and (B) of subdivision (2) of this subsection;

(B) is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(C) has been accepted into a program approved by the commissioner that will provide self-employment assistance activities, including but not limited to regular counseling and direction from a business advisor;

(D) is actively engaged in a full-time basis in activities, which may include training, related to establishing a business and becoming self-employed; and

(E) has filed a weekly claim for the self-employment assistance allowance and provided the information the commissioner prescribes.

(2) A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits under this chapter, except:

(A) the requirements of section 1343 of this title, relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual;

(B) the individual is not considered to be self-employed pursuant to subdivision 1301(24) of this title;

(C) an individual who meets the requirements of this section shall be considered to be unemployed under section 1338 of this title; and

(D) an individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed shall be disqualified from receiving an allowance for the week the failure occurs.

(f) The commissioner may approve not more than 20 persons each year during this pilot project to participate in this program and shall ensure that the aggregate number of individuals receiving a self-employment assistance

allowance at any time does not exceed five percent of the number of individuals receiving regular benefits at that time.

(g) The self-employment assistance allowance shall not be charged to an employer in accordance with section 1325 of this title.

(h) The commissioner may adopt rules to implement this section.

(i) If the commissioner establishes a pilot project for self-employment assistance, the commissioner shall report on the progress of the project to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs by January 15 of the year following the start of the project.

Sec. 20. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(12) "Public employment" means the following:

* * *

(K) other municipal workers, including volunteer firefighters and rescue and ambulance ~~squads~~ services while acting ~~in the line of duty~~ in any capacity under the direction and control of the fire department or rescue or ambulance service, after the governing officials of such municipal body so vote;

* * *

(L) members of any regularly organized private volunteer fire department while acting ~~in the line of duty~~ any capacity under the direction and control of the fire department after election by the organization to have its members covered by this chapter;

(M) members of any regularly organized private volunteer rescue or ambulance ~~squad~~ service while acting ~~in the line of duty~~ any capacity under the direction and control of the rescue or ambulance service after election by the organization to have its members covered by this chapter;

* * *

Sec. 21. 21 V.S.A. chapter 23 is added to read:

CHAPTER 23. SOLE CONTRACTOR AUTHORIZATION PROCESS

§ 1801. PURPOSE

(a) An individual who seeks to work as the sole operator of his or her own business and who can meet the standards and criteria set forth in this chapter may voluntarily request an authorization by the department of labor allowing him or her to operate independently and without the benefits and protections afforded employees under chapters 9 and 17 of this title when working within the scope of the sole contractor authorization.

(b) The sole contractor authorization is limited to activities that are within the scope of the certification applied for by the individual. If an authorized sole contractor engages in activities outside the scope of the authorization, the sole contractor shall be presumed to be the statutory employee of the hiring entity.

(c) This chapter is not intended to change the existing laws governing employees and employers. The chapter applies only to individuals that have received a sole contractor authorization.

(d) Nothing in this chapter shall prohibit an individual from working as an independent contractor without the sole contractor authorization, provided the individual meets the test for an independent contractor under law.

§ 1802. DEFINITIONS

For purposes of this chapter:

(1) "Commissioner" means the commissioner of labor or designee.

(2) "Department" means the department of labor.

(3) "Hiring entity" means any person hiring an authorized sole contractor to perform work.

(4) "Sole contractor" means an individual who is approved by the authorization process established in section 1806 of this chapter. A sole contractor may be an individual, a single-member limited liability company, or a single shareholder corporation.

(5) "Sole contractor authorization review board" means the board established pursuant to this chapter that is responsible for reviewing applications from individuals seeking sole contractor status.

§ 1803. SOLE CONTRACTOR CRITERIA

(a) The authorization review board shall determine if an individual is eligible for sole contractor status. An individual operating an existing business or starting a new business and seeking authorization shall provide the board

with information demonstrating that he or she meets the sole contractor criteria. The applicant shall provide:

(1) A notarized statement from the individual seeking authorization affirming that he or she has not been coerced into falsely claiming to be a sole contractor.

(2) Possession of a federal employer identification number (FEIN) that is used for federal tax reporting purposes.

(3) Possession of a Social Security number or a work visa.

(4) Proof of registration with the Vermont secretary of state, either as a single individual with a trade name or as a single member LLC or single shareholder corporation.

(5) An affidavit attesting that he or she is and will be free to control and direct his or her work, hours of work, and the means and manner of the performance of such work, subject only to the broad framework of the project goals and completion date.

(6) An affidavit attesting that he or she has no employees or assistants and will not have any employees or assistants as a sole contractor, whether paid or unpaid, and does not engage in any joint ventures or associations with other sole contractors to perform work.

(7) Demonstrates that he or she is in good standing regarding any outstanding child support or taxes.

(b) The applicant shall provide additional information reasonably required by the panel demonstrating that he or she meets the sole contractor criteria, which may include:

(1) A demonstrated history of having his or her own business, including evidence of tax returns, recurring business expenditures such as equipment purchases, shop rent, or charge accounts for supplies which establish that he or she is customarily engaged in an established trade or business.

(2) Proof that he or she works for multiple employers in the course of his or her business.

(3) Proof of past work, including written contracts or agreements, invoices, or competitive bids, on a per-job basis.

(4) Proof that he or she is fully and solely responsible for the work produced, possesses his or her own tools, equipment, and instruments of trade, and normally provides materials and supplies necessary to complete the work.

§ 1804. PRESUMPTION OF STATUS

(a) An individual who is authorized pursuant to this chapter shall not be presumed to be an employee when operating under the provisions of this chapter, and the entity hiring the sole contractor shall not be considered the statutory employer of the sole contractor. Notwithstanding this presumption, if the sole contractor is working for the employer or a subcontractor in a capacity that does not qualify as an individual sole contractor, then all statutory provisions relating to unemployment, workers' compensation, wage and hour provisions, and employment practices shall apply.

(b) A hiring entity shall not hire multiple sole authorized contractors to do the same work on a project or at a job site.

§ 1805. COMPOSITION OF BOARD

An authorization review board is hereby established consisting of 11 members, five of whom shall represent labor to be appointed by the governor, five of whom shall represent business to be appointed by the governor, and one who shall be an employee of the department appointed by the commissioner. Nominations for members for the review board shall be solicited from organizations representing employer organizations, trade associations, and employee organizations and from the commissioner of labor, as well as from a public notice conducted by the department of labor. The review board members appointed by the governor shall be appointed for a term of two years, with no member serving more than three consecutive terms.

§ 1806. BOARD REVIEW PROCESS

(a) Representatives from the board shall meet weekly in three-member panels at the direction of the commissioner, consisting of one member each representing labor and business and the department representative. The members of the panels shall rotate weekly.

(b) The board shall meet to review pending applications and may schedule in-person reviews with individuals seeking authorization. The board shall review documentation and information and take testimony from the applicants. The board's decision to grant authorization shall be based on the criteria established in this chapter. If additional information is necessary to render a decision, the applicant will be given sufficient time to submit such information. Once the board determines that it has sufficient information, it shall make a recommendation to the commissioner. The commissioner shall review the recommendation and make a decision within ten days. If additional information is needed, the commissioner may remand for additional information, which shall be provided to the commissioner within 14 days. The

commissioner shall issue a decision based on the additional information within five days of its receipt. The failure to render a decision within the prescribed time limits shall not result in an individual receiving authorization.

§ 1807. APPEAL

An applicant may appeal a decision of the commissioner to the supreme court within 30 days of the date of the decision.

§ 1808. INFORMATION AND EDUCATION

(a) The commissioner of labor in consultation with the authorization review board shall conduct a comprehensive information and education campaign regarding the provisions of this chapter for a period of not less than 12 months upon instituting this authorization process and shall continue to provide regular information to the labor and business communities about the authorization program and the issues of misclassification and miscoding.

(b) The commissioner shall create and maintain an on-line sole contractor registry listing the names of currently authorized sole contractors and the names of individuals that had previously been certified.

(c) The department shall provide all employers notice and information of the provisions relating to sole contractor authorization and hiring. The department shall establish a simple method for employers utilizing sole contractors to acknowledge receipt of the information, including by electronic means. An employer shall not hire a sole contractor until acknowledging receipt of the information with the department. An employer hiring a sole contractor shall make the acknowledgment annually.

§ 1809. INVESTIGATION AND ENFORCEMENT

(a) The commissioner is authorized to investigate and enforce the provisions of this chapter, including whether a sole contractor or a hiring entity is in compliance with the provisions of this title, including workers' compensation, unemployment insurance compensation, wage and hour laws, and employment practices.

(b) Upon request, a sole contractor shall provide the department with books, records, or other documentation or evidence establishing his or her qualifications to be a sole contractor and evidence that all work performed as a sole contractor is performed in accordance with this chapter.

(c) Any person or entity found to have engaged in misrepresentation or fraudulent activities in relation to this chapter shall be listed on the department's website and debarment list.

§ 1810. PENALTIES

(a) A person who purposefully makes a false statement or representation to obtain or assist another to obtain sole contractor status may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00 and may lose the authorization for up to two years.

(b) A sole contractor who violates the terms and conditions of his or her authorization may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00 and may lose the authorization for up to one year.

(c) Any person or entity who coerces an employee or prospective employee into becoming a sole contractor for the purpose of avoiding its obligations under this title or Title 32 may, after notice and opportunity for hearing, be assessed an administrative penalty of up to \$5,000.00.

(d) An administrative penalty issued pursuant to this section may be in addition to other penalties authorized by chapters 9 and 17 of this title.

(e) Administrative hearings shall be conducted in accordance with the Administrative Procedure Act, 3 V.S.A. § 801 et seq. Appeals from penalty assessment determinations shall be to the Vermont supreme court.

(f) Penalties collected under this section shall be utilized by the department to offset the expenses of the sole contractor authorization program.

§ 1811. FEES AND COSTS

(a) The application fee for a sole contractor authorization shall be \$100.00, which shall be deposited into a special fund within the department. The department shall utilize the funds to administer the sole contractor program, including for the purposes of providing a per diem and mileage reimbursement for review board members.

(b) The commissioner is authorized to hire and employ one limited service position for a term of three years for program administration. The program shall be funded by the fees and administrative penalties collected pursuant to this chapter and supplemented by the general fund when fees and penalties do not cover the full costs of the positions and program administration.

§ 1812. RULEMAKING

The commissioner may adopt rules to implement the provisions of this chapter.

Sec. 22. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this state unless the secretary of state has issued a certificate of operation to the owner or operator.

(b) The secretary of state shall issue a “certificate of operation” no later than 15 days before the amusement ride is first operated in the state, if the owner or operator submits all the following:

(1) Certificate of insurance in the amount of not less than \$1,000,000.00 which insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of \$100.00.

(3) Documentation that the owner has complied with 21 V.S.A. § 687. Upon receiving the documentation, the secretary of state shall forward a copy of the documentation to the department of labor.

(c) The certificate of operation shall be valid for one year from the date of issue, provided that the owner remains in compliance with the requirements of subsection (b) of this section.

(d) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride.

Sec. 23. INTERAGENCY AND DEPARTMENTAL TASK FORCE

(a) The agency of administration shall create an interagency and departmental task force to coordinate efforts to combat misclassification of workers and to ensure enforcement of all related laws and regulations. The task force shall be overseen by the department of labor and include the secretaries, commissioners, or designees of the following:

(1) The agency of administration.

(2) The agency of transportation.

(3) The department of buildings and general services.

(4) The department of labor.

(5) The department of financial regulation.

(6) The agency of human services.

(7) The department of taxes.

(8) The office of attorney general.

(9) The department of liquor control.

(10) Any other state licensing agency as determined by the commissioner of labor.

(b) The task force shall meet at least six times per year.

(c) The agency of administration shall enter into a memorandum of understanding with all state agencies to facilitate the coordination and investigation of misclassification and miscoding of workers, including, unless prohibited by state or federal law, the sharing of information concerning the names of businesses found to have misclassified or miscoded workers, the relevant investigation materials, and the number of investigations of misclassification and miscoding.

(d) The department of labor shall pursue entering into a common interest agreement with the United States Department of Labor and the Internal Revenue Service, and any willing states or federal agencies regarding the sharing of information regarding misclassification and miscoding of workers. The department shall notify the chairs of the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs before entering into a common interest agreement. The department shall consider whether the common interest agreement would result in the disclosure of an individual's personal information, or disclose information in violation of state or federal law.

(e) The department of labor shall report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs on the progress of the interagency and departmental task force, the memorandum of understanding, the status of the common interest agreement, and any other information regarding misclassification and miscoding annually by January 15 in 2013, 2014, and 2015.

Sec. 24. WORKERS' COMPENSATION PREMIUMS

(a) The department of financial regulation in consultation with the department of labor shall study the issue of workers' compensation premiums increasing as a result of an employee completing a job-related safety course. The department of financial regulation shall investigate how workers' compensation premiums can be decreased or kept at a steady rate for employees who receive job safety training.

(b) The department of financial regulation shall report its findings and any recommendations to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs no later than January 15, 2013.

Sec. 25. REPORT

The commissioner of labor shall report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs regarding the implementation and operation of the sole contractor authorization process. The report shall be made on or before January 15, 2013.

Sec. 26. SHORT-TIME COMPENSATION FUNDING

The commissioner of labor is hereby authorized to pursue federal funding for Vermont's short-time compensation program, if after an analysis of the eligibility requirements for receiving such funding, he or she concludes that doing so would be in the best interest of the state of Vermont.

Sec. 26a. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(14) "Worker" and "employee" means an individual who has entered into the employment of, or works under contract of service or apprenticeship with, an employer. Any reference to a worker who has died as the result of a work injury shall include a reference to the worker's dependents, and any reference to a worker who is a minor or incompetent shall include a reference to the minor's committee, guardian, or next friend. The term "worker" or "employee" does not include:

* * *

(I) An individual who receives foster care payments excluded from the definition of gross income under Section 131 of Title 26 of the Internal Revenue Code.

* * *

Sec. 26b. STUDY

The commissioner of labor and the secretary of human services shall determine the instances in which arrangements made or paid for directly or

indirectly by the agency of human services to recipients constitute employment. The commissioner and the secretary shall also assess whether contracts entered into by the agency comply with employment law including workers' compensation requirements. The commissioner and the secretary shall report their findings and, to the extent that the agency is required or may elect to provide workers' compensation and unemployment compensation, shall provide an analysis of the financial costs concerning the provision of workers' compensation and unemployment compensation as well as an analysis of how the compensation could be administered. The report shall be made to the house committees on appropriations and on commerce and economic development and the senate committees on appropriations and on economic development, housing and general affairs by January 15, 2013.

Sec. 27. EFFECTIVE DATE

Sec. 12 (relating to nondisclosure or misrepresentation in order to receive unemployment benefits) of this act shall take effect on July 1, 2013. Sec. 18 (relating to employer obligations) of this act shall take effect on October 1, 2012.

Which was agreed to.

Thereupon, the report of the committees on Ways and Means and Appropriations were agreed to and the report of the committee on Commerce and Development, as amended, agreed to and third reading was ordered.

Favorable Report; Third Reading Ordered

H. 787

Rep. Devereux of Mount Holly, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the city of Montpelier;

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Favorable Report; Third Reading Ordered

S. 209

Rep. Spengler of Colchester, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to naturopathic physicians

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Action on Bill Postponed

H. 413

House bill, entitled

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. French of Shrewsbury**, action on the bill was postponed until Wednesday, April 18, 2012.

Action on Bill Postponed

H. 503

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. French of Shrewsbury**, action on the bill was postponed until Wednesday, April 18, 2012.

Rules Suspended; Bill Messaged to Senate Forthwith

S. 199

Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the thirteenth day of April, 2012, he approved and signed bills originating in the House of the following titles:

- H. 39** An act relating to persons authorized to direct disposition of service members' remains;
- H. 378** An act relating to town payments of county taxes;
- H. 449** An act relating to the designation of brook trout and walleye pike as the state fish of Vermont.

Adjournment

At eleven o'clock and forty-five minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, April 17, 2012, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 56.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 337

House concurrent resolution designating Wednesday, April 25, 2012, as National Walk@Lunch Day in Vermont;

H.C.R. 338

House concurrent resolution congratulating the Twinfield Union School 2012 Division IV championship boys' basketball team;

H.C.R. 339

House concurrent resolution congratulating the 2011 Randolph Union High School Division III girls' cross country championship team;

H.C.R. 340

House concurrent resolution thanking the staff of the agency of natural resources, academic and scientific institutions, and community members who contributed to the development of the new Bedrock Geologic Map of Vermont;

H.C.R. 341

House concurrent resolution congratulating the St. Johnsbury Academy Hilltoppers on winning the 2012 boys' indoor state track and field championship;

H.C.R. 342

House concurrent resolution congratulating Xiangru Chen on winning a 2012 Siemens Award for excellence in science and mathematics;

H.C.R. 343

House concurrent resolution commemorating the 75th anniversary of the U.S. Fish and Wildlife Service's Wildlife & Sport Fish Restoration Program;

H.C.R. 344

House concurrent resolution congratulating Oxbow Union High School athletes A. J. Gillis and William Heathman on their victories at the 2012 state indoor track and field championship;

H.C.R. 345

House concurrent resolution celebrating the 20th anniversary of the enactment of Act 135, Vermont's sexual orientation antidiscrimination law, and the vital role played in its passage by Representative Ron Squires, Vermont's first openly gay state legislator;

H.C.R. 346

House concurrent resolution welcoming the visiting military delegation from Macedonia and commemorating the continuing partnership between the state of Vermont and Macedonia;

H.C.R. 347

House concurrent resolution congratulating the BFA-St. Albans Bobwhites 2012 Division I championship boys' ice hockey team;

H.C.R. 348

House concurrent resolution congratulating the winning teams at the fifth annual Jr. Iron Chef VT cooking competition;

H.C.R. 349

House concurrent resolution congratulating Christopher Gish on winning the 2012 Vermont Geographic Bee;

H.C.R. 350

House concurrent resolution congratulating Patricia Howrigan Reynolds on being named the 2012 Vermont Mother of the Year;

H.C.R. 351

House concurrent resolution in memory of Vermont archivist, historian, and librarian Esther Munroe Swift;

H.C.R. 352

House concurrent resolution honoring Louis D. Lertola of South Burlington for his outstanding work in securing increased local property tax exemptions for disabled veterans;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Tuesday, April 17, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. William Aswad of Burlington, VT.

Pledge of Allegiance

Page Alex Ventriss of South Burlington led the House in the Pledge of Allegiance.

Message from the Senate No. 43

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 28. An act relating to the permit process for protecting the environment.

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

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

H. 760. An act relating to lowering to 16 the age of consent for blood donation.

And has passed the same in concurrence.

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

H. 761. An act relating to executive branch fees, including motor vehicle and fish and wildlife fees.

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

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 11. Joint resolution urging the United States Congress to propose amendments to the United States Constitution for the states' consideration relating to contributions and expenditures intended to affect elections and relating to the rights of corporations.

In the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 43. Senate concurrent resolution designating May 2012 as Lupus Awareness Month in Vermont.

S.C.R. 44. Senate concurrent resolution congratulating Robert Swartz on being named the 2012 Northeast Kingdom Chamber Citizen of the Year.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 337. House concurrent resolution designating Wednesday, April 25, 2012, as National Walk@Lunch Day in Vermont.

H.C.R. 338. House concurrent resolution congratulating the Twinfield Union School 2012 Division IV championship boys' basketball team.

H.C.R. 339. House concurrent resolution congratulating the 2011 Randolph Union High School Division III girls' cross country championship team.

H.C.R. 340. House concurrent resolution thanking the staff of the agency of natural resources, academic and scientific institutions, and community members who contributed to the development of the new Bedrock Geologic Map of Vermont.

H.C.R. 341. House concurrent resolution congratulating the St. Johnsbury Academy Hilltoppers on winning the 2012 boys' indoor state track and field championship.

H.C.R. 342. House concurrent resolution congratulating Xiangru Chen on winning a 2012 Siemens Award for excellence in science and mathematics.

H.C.R. 343. House concurrent resolution commemorating the 75th anniversary of the U.S. Fish and Wildlife Service's Wildlife & Sport Fish Restoration Program.

H.C.R. 344. House concurrent resolution congratulating Oxbow Union High School athletes A. J. Gillis and William Heathman on their victories at the 2012 state indoor track and field championship.

H.C.R. 345. House concurrent resolution celebrating the 20th anniversary of the enactment of Act 135, Vermont's sexual orientation antidiscrimination law, and the vital role played in its passage by Representative Ron Squires, Vermont's first openly gay state legislator.

H.C.R. 346. House concurrent resolution welcoming the visiting military delegation from Macedonia and commemorating the continuing partnership between the state of Vermont and Macedonia.

H.C.R. 347. House concurrent resolution congratulating the BFA-St. Albans Bobwhites 2012 Division I championship boys' ice hockey team.

H.C.R. 348. House concurrent resolution congratulating the winning teams at the fifth annual Jr. Iron Chef VT cooking competition.

H.C.R. 349. House concurrent resolution congratulating Christopher Gish on winning the 2012 Vermont Geographic Bee.

H.C.R. 350. House concurrent resolution congratulating Patricia Howrigan Reynolds on being named the 2012 Vermont Mother of the Year.

H.C.R. 351. House concurrent resolution in memory of Vermont archivist, historian, and librarian Esther Munroe Swift.

H.C.R. 352. House concurrent resolution honoring Louis D. Lertola of South Burlington for his outstanding work in securing increased local property tax exemptions for disabled veterans.

Committee Bill Introduced

H. 794

Rep. Sweaney of Windsor, for the committee on Government Operations, introduced a bill, entitled

An act relating to the management of search and rescue operations

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Senate Bill Referred

S. 28

Senate bill, entitled

An act relating to the permit process for protecting the environment

Was read and referred to the committee on Natural Resources and Energy.

Bill Referred to Committee on Appropriations**S. 223**

Senate bill, entitled

An act relating to health insurance coverage for early childhood development disorders, including autism spectrum disorders

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Placed on Calendar**J.R.S. 11**

By Senators Lyons, Sears, Ashe, Ayer, Baruth, Fox, Giard, MacDonald, McCormack, Miller and Pollina,

J.R.S. 11. Joint resolution urging the United States Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

Whereas, the U.S. Bill of Rights provides certain inalienable rights to natural persons, and

Whereas, corporations are not mentioned in the U.S. Constitution, and

Whereas, corporations are legal entities that governments create, and the rights they enjoy under the U.S. Constitution should be more narrowly defined than the rights that are afforded to natural persons, and

Whereas, the decision to regulate corporate financial campaign contributions is one that historically Congress and the states have been constitutionally allowed to address, and

Whereas, in 1907, Congress enacted the Tillman Act prohibiting corporate financial contributions to federal election campaigns for public office, and

Whereas, in 2010, the U.S. Supreme Court in *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (U.S. 2010), ruled that Congress and the states lacked the constitutional right to ban independent corporate expenditures to political campaigns for public office, and

Whereas, the U.S. Supreme Court in the *Citizens* decision relied on its previously issued opinion in the 1976 case *Buckley v. Valeo*, 424 U.S. 1 (U.S. 1976), in which it equated the spending of money for electing candidates to public office as speech, and

Whereas, the *Citizens* decision has allowed for the creation of super political action committees in election campaigns for public office that allow for unregulated campaign expenditures in unprecedented amounts, and

Whereas, as a result of the *Citizens* decision, Congress and the state legislatures were denied any legal authority to regulate independent corporate political expenditures, and

Whereas, a restoration of the guidelines established in the Bipartisan Campaign Reform Act of 2002 is imperative so that Congress and the state legislatures may exercise their historic authority to make their own decisions about whether to regulate corporate political expenditures, and

Whereas, this policy change will require that the U.S. Constitution be amended to authorize congressional or state regulation of individual and corporate financial participation in political campaigns, and

Whereas, on Vermont town meeting day, March 6, 2012, 64 Vermont towns and cities passed resolutions urging the Vermont congressional delegation and the U.S. Congress to propose legislative or congressional action to address the issues raised by *Citizens* including that money is not speech and corporations are not persons under the U.S. Constitution, and

Whereas, these resolutions, passed by towns on town meeting day, also urged the general assembly to pass a similar resolution directed at the Vermont congressional delegation, and

Whereas, U.S. Senator Tom Udall of New Mexico with 22 cosponsors has introduced Senate Joint Resolution 29, “proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections,” that would give the Congress and the states the authority to regulate the raising and spending of moneys with respect to elections, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its disagreement with the holdings of the U.S. Supreme Court in *Buckley* and in *Citizens* that money is speech and urges Congress to adopt Senate Joint Resolution 29, *and be it further*

Resolved: That the General Assembly urges Congress to consider the request of many Vermont cities and towns to propose a U.S. constitutional amendment for the state’s consideration that provides that money is not speech and corporations are not persons under the U.S. Constitution and that also affirms the constitutional rights of natural persons, *and be it further*

Resolved: That the General Assembly does not support an amendment to the U.S. Constitution that would abridge the constitutional rights of any person or organization including freedom of religion or freedom of the press, *and be it further*

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

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Remarks Journalized

On motion of **Rep. Komline of Dorset**, the following remarks by **Rep. Klein of East Montpelier** were ordered printed in the Journal:

"Mr. Speaker:

It is an extreme honor and a great pleasure to have in the General Assembly today SGG Scott Hawkins and his family. SGG Hawkins is an East Montpelier native and a 1993 graduate of U-32 High School right here in East Montpelier. Upon graduation Scott enlisted in the U.S. Marine Corps where he served six years of active duty and was honorably discharged in 1999. He then joined the Vermont National Guard and deployed with Task Force Green Mountain in 2005 for one year. In 2010 he deployed again to Afghanistan where he served with the 101st Airborne in Paktika Province. Let me read for you some of this NCO Evaluation Report from his deployment in Afghanistan. He did receive their highest rating and he:

Received the Combat Coin of Excellence for his tactical ability and motivation;

Earned the Combat Infantryman's Badge for the successful counter attack of his heavy weapons section against an entrenched and overwhelming enemy force;

Conducted appropriate level of preparation for over 200 combat operations which resulted in zero Coalition Force casualties; a safety level unmatched in 3-187 IN;

Performed the duties as acting platoon leader for one calendar month; excelled in route clearance and removal of enemy IED emplacement along tier one hot spot;

Inspired platoon to consistently exceed standards while operating under multiple task force commands and constantly changing guidance;

Conducted combat operations with the most junior enlisted in leadership positions out of any other platoon and still exploited 2 enemy caches and 3 IEDs in his area;

Oversaw the 100% accountability of all platoon sensitive items; more than 300 items valued at over 3.5 million dollars without loss or damage;

Accomplished the development of junior enlisted into the next strong generation of Mountain Infantry leaders.

SGG Hawkins is an outstanding NCO who leads by example; a solid professional ready for increased responsibility.

Scott currently has almost 19 years of service even at the young age of 37. He is currently with the 3-124th Information Battalion as an instructor right here at Norwich University.

I am here to thank Scott for his dedicated service to his country, his state and his community. I want all of us to welcome him home and simply say “JOB WELL DONE. WE APPRECIATE WHAT YOU HAVE DONE.”

Now, I have to tell you that it wasn't easy to get Scott to agree to come in here today. With encouragement from his mom, Sue, I pestered Scott with emails for months. I told him it would be a good thing, not only for him and his family, but for all of us to take a moment and give thanks to those Vermonters who put themselves in harm's way so that we can enjoy the freedoms that we all too often take for granted.

What I have learned and noticed is that we, in this great State House, make great fanfare about our brave Vermont men and women when we are sending them off to fight in foreign lands. But how often do we think about their return to everyday life after experiencing situations that many of us would never want to thank about. So what SGG Hawkins is most concerned about is certainly not himself, but those young men and women who served with him and who are maybe having a tough time adjusting to live after deployment. SGG Hawkins wants us to remember to thank each and every service person who served their country and state with honor. And if it takes each and every Rep in this legislature to bring a Vermont Guard family in to the State House so that we don't forget what they do for us, then that is time well spent. They are all proud but they do need our help and they do deserve our thanks.

So, I start by thanking all our Vermont Guardsmen and by thanking MY neighbor and constituent SGG Scott Hawkins for his long and dedicated service. We appreciate everything you do for us.

Please warmly welcome SGG Scott Hawkins and his wife, Marcie, their children Jordan, Aiden and Arianna and Scott's mom, Sue. Along with many friends and neighbors seated in the gallery.”

Bill Amended, Read Third Time and Passed**H. 762**

House bill, entitled

An act relating to workers' compensation and unemployment compensation

Was taken up and pending third reading of the bill, **Reps. Pugh of South Burlington and Haas of Rochester** moved to amend the bill as follows:

In Sec. 26b, STUDY, by striking the last sentence and inserting in lieu thereof "The report shall be made to the house committees on appropriations, on commerce and economic development, and on human services and the senate committees on appropriations, on economic development, housing and general affairs, and on health and welfare by January 15, 2013."

Which was agreed to.

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the bill as follows:

First: In Sec. 5, 21 V.S.A. § 398, in the first sentence by striking out "fails to" and inserting in lieu thereof "does not"

Second: In Sec. 14, 21 V.S.A. § 1452(3), by striking out "lead" and inserting in lieu thereof "led"

Third: In Sec. 19, 21 V.S.A. § 1340a(e)(1)(A), by striking out "Is" and inserting in lieu thereof "is"

Fourth: In Sec. 19, 21 V.S.A. § 1340a(e)(1)(C), by striking out "but not limited to" after "including"

Fifth: In Sec. 19, 21 V.S.A. § 1340a(e)(2)(D), by striking out "actively engage" and inserting in lieu thereof "engage actively"

Sixth: In Sec. 21, 21 V.S.A. § 1803(a)(1), by striking out "notarized" and inserting in lieu thereof "sworn"

Which was agreed to.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Botzow of Pownal** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 131. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon	French of Randolph	Moran of Wardsboro
Ancel of Calais	Gilbert of Fairfax	Mrowicki of Putney
Andrews of Rutland City	Grad of Moretown	Munger of South Burlington
Aswad of Burlington	Haas of Rochester	Myers of Essex
Atkins of Winooski	Head of South Burlington	Nuovo of Middlebury
Bartholomew of Hartland	Heath of Westford	Olsen of Jamaica
Batchelor of Derby	Hebert of Vernon	Partridge of Windham
Bissonnette of Winooski	Helm of Fair Haven	Pearce of Richford
Bohi of Hartford	Higley of Lowell	Pearson of Burlington
Botzow of Pownal	Hooper of Montpelier	Peltz of Woodbury
Bouchard of Colchester	Howard of Cambridge	Perley of Enosburgh
Branagan of Georgia	Howrigan of Fairfield	Poirier of Barre City
Brennan of Colchester	Hubert of Milton	Potter of Clarendon
Browning of Arlington	Jerman of Essex	Ralston of Middlebury
Burke of Brattleboro	Jewett of Ripton	Ram of Burlington
Buxton of Tunbridge	Johnson of South Hero	Reis of St. Johnsbury
Campion of Bennington	Keenan of St. Albans City	Russell of Rutland City
Canfield of Fair Haven	Kitzmiller of Montpelier	Savage of Swanton
Cheney of Norwich	Klein of East Montpelier	Scheuermann of Stowe
Christie of Hartford	Koch of Barre Town	Shand of Weathersfield
Clark of Vergennes	Komline of Dorset	Sharpe of Bristol
Clarkson of Woodstock	Krebs of South Hero	Shaw of Pittsford
Condon of Colchester	Krowinski of Burlington	Spengler of Colchester
Conquest of Newbury	Kupersmith of South	Stevens of Waterbury
Consejo of Sheldon	Burlington	Stevens of Shoreham
Corcoran of Bennington	Lanpher of Vergennes	Strong of Albany
Courcelle of Rutland City	Larocque of Barnet	Stuart of Brattleboro
Crawford of Burke	Lawrence of Lyndon	Sweaney of Windsor
Dakin of Chester	Lenes of Shelburne	Taylor of Barre City
Davis of Washington	Lewis of Berlin	Till of Jericho
Deen of Westminster	Lewis of Derby	Townsend of Randolph
Degree of St. Albans City	Lippert of Hinesburg	Trieber of Rockingham
Devereux of Mount Holly	Macaig of Williston	Turner of Milton
Dickinson of St. Albans	Malcolm of Pawlet	Waite-Simpson of Essex
Town	Manwaring of Wilmington	Webb of Shelburne
Donaghy of Poultney	Marcotte of Coventry	Wilson of Manchester
Donovan of Burlington	Marek of Newfane	Winters of Williamstown
Edwards of Brattleboro	Martin of Springfield	Wizowaty of Burlington
Ellis of Waterbury	Martin of Wolcott	Woodward of Johnson
Emmons of Springfield	Masland of Thetford	Wright of Burlington
Evans of Essex	McAllister of Highgate	Yantachka of Charlotte
Fagan of Rutland City	McCullough of Williston	Young of Glover
Fisher of Lincoln	McFaun of Barre Town	Zagar of Barnard
Frank of Underhill	Miller of Shaftsbury	
French of Shrewsbury	Mook of Bennington	

Those who voted in the negative are:

none

Those members absent with leave of the House and not voting are:

Burditt of West Rutland	Kilmartin of Newport City	Pugh of South Burlington
Copeland-Hanzas of Bradford	Lorber of Burlington	Smith of New Haven
Donahue of Northfield	McNeil of Rutland Town	Smith of Morristown
Eckhardt of Chittenden	Morrissey of Bennington	South of St. Johnsbury
Greshin of Warren	O'Brien of Richmond	Toll of Danville
Johnson of Canaan	O'Sullivan of Burlington	
	Peaslee of Guildhall	

Third Reading; Bill Passed

H. 787

House bill, entitled

An act relating to approval of amendments to the charter of the city of Montpelier

Was taken up, read the third time and passed.

Third Reading; Bill Passed in Concurrence

S. 209

Senate bill, entitled

An act relating to naturopathic physicians

Was taken up, read the third time and passed in concurrence.

Bill Amended; Third Reading Ordered

H. 533

Rep. Kitzmiller of Montpelier, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to insurance business transfers

Reported in favor of its passage when amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. TITLE

This act shall be known as the "Insurance Business Transfer Act."

Sec. 2. FINDINGS AND PURPOSE

(a) The Vermont general assembly finds:

(1) The creation of jobs and investment in the state of Vermont through business expansion and recruitment is of the highest importance.

(2) Vermont has created a thriving alternative risk financing industry, which has provided Vermonters with well-paying jobs and has created significant premium tax revenue for the state.

(b) The purpose of this act is to facilitate and streamline the process for transfers of closed blocks of commercial insurance policies and reinsurance agreements between solvent insurance companies.

Sec. 3. 8 V.S.A. chapter 147 is added to read:

CHAPTER 147. INSURANCE BUSINESS TRANSFERS

§ 7111. DEFINITIONS

As used in this chapter:

(1) “Assuming insurer” means an insurance company that acquires an insurance obligation or risk from a transferring insurer pursuant to a plan, and that is a domestic insurer or a foreign or alien insurance company that has a certificate of authority issued by the commissioner under chapter 101 of this title.

(2) “Closed block” means a block, line, or group of businesses which an insurance company ceases to offer or sell to new applicants.

(3) “Comment period” means the 60-day period starting on the date the commissioner authorizes notice regarding a plan to be issued pursuant to subsection 7114(d) of this chapter. For good cause, the comment period may be extended by the commissioner up to an additional 30 days.

(4) “Commissioner” means the commissioner of banking, insurance, securities, and health care administration.

(5) “Department” means the department of banking, insurance, securities, and health care administration.

(6) “Domicile regulator” means the insurance regulatory authority of the domicile jurisdiction of a transferring insurer or an assuming insurer, if either such insurance company is a foreign insurance company or an alien insurance company.

(7) “Insurance business transfer” means a policy transfer or a reinsurance transfer.

(8) “Insurance business transfer plan” or “plan” means a plan that sets forth all provisions and includes all documentation regarding an insurance business transfer required under this chapter.

(9) “Parent company” means any person that organizes an insurance company the business of which is limited to the ownership and administration of policies and reinsurance agreements that are assumed by such insurance company under this chapter.

(10) “Party” means any person so defined under subsection 7118(c) of this chapter.

(11) “Personal lines insurance” means an insurance policy that covers personal, family, or household risks.

(12) “Plan summary” means the written statement of the key terms and provisions of a plan described under subdivision 7114(b)(12) of this chapter.

(13) “Policy” means a contract of property insurance, casualty insurance, or a combination of property and casualty insurance, other than a personal lines insurance contract or an insurance contract that is subject to regulation under the workers’ compensation laws of any state, which is not a reinsurance agreement.

(14) “Policyholder” means the person identified as the policyholder or first named in a policy.

(15) “Policy transfer” means the transfer by a transferring insurer, and the assumption by an assuming insurer, of all rights, obligations, and liabilities of the transferring insurer with respect to a closed block of policies and any reinsurance agreements that are included in a plan.

(16) “Reinsurance agreement” means a contract of reinsurance between a transferring insurer and another insurance company, with respect to which a transferring insurer is a party as the reinsurer or the reinsured.

(17) “Reinsurance transfer” means the transfer by the transferring insurer, and the assumption by an assuming insurer, of all rights, obligations, and liabilities of a transferring insurer with respect to a closed block of reinsurance agreements that are included in a plan, which plan does not include the transfer or assumption of any right, liability, or obligation of the transferring insurer with respect to a policy.

(18) “Transferring insurer” means an insurance company that transfers an insurance obligation or risk to an assuming insurer pursuant to a plan, and that is a domestic insurer or a foreign or alien insurance company that has a

certificate of authority issued by the commissioner under chapter 101 of this title.

§ 7112. JURISDICTION; APPEALS

(a) The commissioner shall have exclusive jurisdiction with respect to the review and approval or denial of any insurance business transfer plan.

(b) Any appeal of an order of the commissioner issued under section 7116 of this chapter shall be to the supreme court only, and such review shall be on the record and not de novo.

§ 7113. EXCLUDED TRANSACTIONS

This chapter shall not apply to any transfer of a policy or reinsurance agreement if all parties with an interest in the policies and reinsurance agreements being transferred have approved the transfer and the transfer is otherwise permitted under applicable law, including chapter 157 of this title.

§ 7114. APPLICATION FOR APPROVAL; INSURANCE BUSINESS TRANSFER PLAN

(a) A transferring insurer and assuming insurer shall file a plan with the commissioner and, at the time of filing, shall pay to the commissioner the fee described in subdivision 7117(a)(1) of this chapter.

(b) A plan shall include the following:

(1) a list of all parties, policies, and reinsurance agreements included in the plan and the identity of any parent company of the assuming insurer;

(2) certificates issued by the domicile regulators of the transferring insurer and the assuming insurer and, if applicable, a parent company that is a regulated insurance company, each attesting to the good standing of the transferring insurer, the assuming insurer, and the parent company under the insurance regulatory laws of the jurisdiction of their respective domicile regulator; provided that, if such certificates are not obtainable under the laws or practices of a domicile regulator, a certificate of an officer of the transferring insurer, the assuming insurer, or the parent company, as applicable, attesting to the foregoing;

(3) a statement describing the terms of each policy and reinsurance agreement, if any, regarding assignment and assumption of the rights, liabilities, and obligations of the transferring insurer with respect to each policy and reinsurance agreement;

(4) the most recent audited financial statements and annual reports filed by the transferring insurer and the assuming insurer with their respective

domicile regulators, and such financial information with respect to a parent company, if any, with respect to the plan, that the commissioner may reasonably require;

(5) an actuarial study that quantifies the liabilities to be transferred to the assuming insurer under the policies and reinsurance agreements;

(6) the form and amount of consideration payable by the transferring insurer and proforma financial statements that demonstrate the solvency of the transferring insurer commensurate with the nature of the insurance business transfer after the transfer is effective;

(7) proforma financial statements that demonstrate the solvency of the assuming insurer commensurate with the nature of the insurance business transfer after the transfer is effective;

(8) officer certificates of the transferring insurer and the assuming insurer attesting that each has obtained all required internal approvals regarding the insurance business transfer;

(9) the form of notice to be provided to a party under this chapter and how such notice shall be provided;

(10) a statement regarding any pending dispute between the transferring insurer and any policyholder or party to a reinsurance agreement or of a disputed claim by any third party with respect to any policy or reinsurance agreement that is included in the plan;

(11) the statement described in subsection (c) of this section regarding the information and documents submitted as part of or with respect to a plan that are confidential;

(12) a plan summary that includes all information regarding the plan as reasonably required by the commissioner; and

(13) any other information that the commissioner may reasonably require with respect to the plan in the exercise of his or her reasonable discretion.

(c) The plan shall include a statement of the information and documentation included in the plan that the assuming insurer or the transferring insurer may request be given confidential treatment, which in all cases shall include all information identifying the persons insured under a policy and which may include any information that qualifies as a trade secret or other confidential research, development, or commercial information of the transferring insurer or the assuming insurer. The commissioner, subject to the

exercise of his or her reasonable discretion, shall determine whether the information designated in such statement qualifies for confidential treatment. Any information qualifying for confidential treatment shall not be subject to subpoena and shall not be made public by the commissioner or by any other person; provided, however, the commissioner may in his or her discretion grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country, to public officers of an international financial regulatory authority, or to state or federal law enforcement officers pursuant to a validly issued subpoena or search warrant, provided that such officers receiving the information agree in writing to hold it in a manner consistent with this section.

(d) Within 10 days of the date the application is filed and the fee payable under subsection (a) of this section is paid in full, the commissioner shall notify the transferring insurer and the assuming insurer whether the notice described in subsection (e) of this section shall be issued. If the commissioner notifies the transferring insurer and the assuming insurer that such notice shall not be issued, the commissioner shall specify any modifications to the plan and additional information or documentation with respect to the plan that are required before such notice shall be issued. If the commissioner notifies the transferring insurer and the assuming insurer that the notice described in subsection (e) of this section shall be issued, the commissioner shall set a date for a hearing on the plan as required under subsection (g) of this section.

(e) Within 30 days of the date the commissioner notifies the transferring insurer and the assuming insurer pursuant to subsection (d) of this section that notice shall be issued, the transferring insurer shall provide notice to all parties that:

(1) complies with the plan and the provisions of 3 V.S.A. § 809(b);

(2) includes the plan summary, the date, time, and place of the hearing on the plan, and a statement of the right of each party to file written comments on the plan with the commissioner and appear and present evidence regarding the plan at the hearing; and

(3) includes all other information reasonably required by the commissioner.

(f) During the comment period:

(1) any party may file written comments on the plan with the commissioner; and

(2) the transferring insurer and the assuming insurer shall file with the commissioner such additional documentation and information regarding the

plan as the commissioner may reasonably require.

(g) The hearing on the plan shall be held not later than 60 days after the end of the comment period. Any party that participates in such a hearing shall bear its own costs of participation, including attorney's fees.

§ 7115. PLAN REVIEW

(a) The commissioner shall retain an actuary to conduct an actuarial study quantifying the liabilities to be transferred to the assuming insurer under the policies and reinsurance agreements and is authorized to retain any other legal, financial, and examination services from outside the department to assist in the review of the plan.

(b) In reviewing the plan, the commissioner shall take into account all written comments filed with respect to the plan and evidence taken at the hearing on the plan, and any other factors that the commissioner reasonably deems relevant with respect to the plan, but in all cases, the commissioner shall consider each of the following:

(1) the solvency of the transferring insurer and the assuming insurer both before and after the implementation of the proposed plan;

(2) the ability of the assuming insurer to comply with all requirements of a policy and reinsurance agreements in the case of a policy transfer, or with all requirements of reinsurance agreements in the case of a reinsurance transfer, including administration of claims in process as of and after the effective date of the transfer;

(3) whether the plan would materially adversely affect either the interests of objecting parties or the interests of policyholders; and

(4) the fairness of the plan to all parties.

§ 7116. ORDER

(a) Within 30 days of the date the hearing is held on the plan, the commissioner shall issue an order setting forth the amount of fees payable by the transferring insurer under subdivision 7117(a)(2) of this chapter, payable not later than 14 days after the date of such order. Upon receipt of such payment the commissioner shall within five days issue an order that complies with subsection 7118(c) of this chapter approving or disapproving the plan. Whenever it is not practicable to issue an order within 30 days, the commissioner may extend such time up to an additional 30 days. If the order approves the plan, it shall:

(1) set forth the fee payable by the assuming insurer under subsection

7117(b) of this chapter, which fee shall be payable not later than 14 days after the date of such order;

(2) not be effective until such time as the fees described in this subsection have been paid in full.

(b) An order issued pursuant to subsection (a) of this section approving the plan shall transfer to the assuming insurer all of the transferring insurer's rights, obligations, liabilities, and assets with respect to each policy and reinsurance agreement that is subject to the plan, such that the transferring insurer has no further rights, obligations, or liabilities with respect to such policies and reinsurance agreements and the assuming insurer has all such rights, obligations, and liabilities as if it, instead of the transferring insurer, were the original party to such agreement. Such order shall be valid notwithstanding any provision of any such policy or reinsurance agreement that would otherwise prohibit the transfer, including any provision of such policy or reinsurance agreement that would require the approval of a policyholder or any other person with respect to such transfer.

(c) The commissioner may issue any other orders that he or she reasonably deems necessary to fully implement an order issued under subsection (a) of this section.

(d) No order issued under subsection (a) or (c) of this section shall be construed to modify or amend the terms of a policy or reinsurance agreement, other than with respect to matters specifically subject to modification or amendment under this chapter.

(e) At any time before the commissioner issues the order described in subsection (a) of this section, either the transferring insurer or the assuming insurer may withdraw the plan without prejudice. Upon such withdrawal, however, the commissioner shall issue an order setting forth the amount of fees payable by the transferring insurer under subdivision 7117(a)(2) of this chapter, payable not later than 14 days after the date of such order.

§ 7117. FEES AND COSTS

(a) To cover the costs of processing and reviewing a plan under this chapter, the transferring insurer shall pay to the commissioner the following nonrefundable fees at the times set forth in subsections 7114(a) and 7116(a) of this chapter:

(1) a reasonable and adequate administrative fee, approved by the general assembly; and

(2) the reasonable cost of persons retained by the commissioner under subsection 7115(a) of this chapter.

(b) If a plan is approved, the assuming insurer shall pay the commissioner a reasonable and adequate transfer fee, approved by the general assembly.

§ 7118. APPLICABLE LAWS

(a) In the event of any conflict between a provision of this chapter and any other provision of this title, such provision of this chapter shall control. Without limitation of the foregoing, chapter 157 of this title shall not apply to any insurance business transfer under this chapter.

(b) A Vermont insured shall be entitled to receive any benefit under subchapter 9 (property and casualty insurance guaranty association) of chapter 101 of this title for claims arising out of any policy that is subject to an insurance business transfer under this chapter.

(c) 3 V.S.A. §§ 801, 809, 812, 813, and 815(c) shall apply to a proposed insurance business transfer; provided, for purposes of the definitions set forth in 3 V.S.A. § 801:

(1) A proposed insurance business transfer shall be a “contested case.”

(2) A “party” with respect to a proposed insurance business transfer shall be limited to the transferring insurer, the assuming insurer, each counterparty to a reinsurance agreement, each policyholder in the case of a policy transfer only, and any other person the commissioner approves as a party with respect to such proceeding.

§ 7119. REGULATION OF INSURERS AND SERVICE PROVIDERS

(a) Except as provided in subsection (b) of this section, a transferring insurer and an assuming insurer shall be subject to all provisions of this title and all rules adopted by the commissioner under this title applicable to property and casualty insurance companies domiciled or licensed in this state.

(b) The commissioner may adopt rules or an order applicable to any insurance company that is organized or licensed under this title, which shall exempt such insurance company from any provision of this title or rules adopted thereunder, or which rules shall modify any provision of this title or rule adopted thereunder with respect to such insurance company, upon a finding that such exemption or modification is consistent with the purposes of this chapter and is in the public interest, provided such insurance company has been organized or licensed under this title solely to:

(1) participate in an insurance business transfer as a transferring insurer under this chapter; or

(2) own and administer policies and reinsurance agreements assumed by such insurer as an assuming insurer under this chapter.

(c) The commissioner shall adopt rules regarding the provision of services to an assuming insurer by persons other than any director, officer, or employee of such assuming insurer, with respect to the administration of policies and reinsurance agreements assumed by such assuming insurer pursuant to an insurance business transfer, including any licensing or other requirements.

(d) The commissioner may adopt any other rules necessary or appropriate to carry out the provisions of this chapter. Such rules shall ensure that the insurance business transfers authorized by this chapter take into account any rights and obligations arising under the laws of the domicile jurisdiction of any affected insurers and policyholders.

Sec. 4. INSURANCE BUSINESS TRANSFERS; REPORTS

(a) Interim report. On or before January 15, 2013, the commissioner of banking, insurance, securities, and health care administration shall submit to the house committee on commerce and economic development and the senate committee on finance a report summarizing the rulemaking process authorized under Sec. 3 of this act, including the major issues raised by interested parties. The interim report shall include also a description of the number and nature of any insurance business transfer plans filed or expected to be filed under 8 V.S.A. chapter 147, as well as the commissioner's recommendations, if any, for statutory amendments to 8 V.S.A. chapter 147.

(b) Final report. On or before January 15, 2014, the commissioner of banking, insurance, securities, and health care administration shall submit to the house committee on commerce and economic development and the senate committee on finance a report describing the number and nature of insurance business transfer plans filed under 8 V.S.A. chapter 147 and their current status. The report shall include also the commissioner's recommendations, if any, for statutory amendments to 8 V.S.A. chapter 147.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 and 2 of this act shall take effect on passage.

(b) Sec. 3 of this act shall take effect on passage only with respect to the rulemaking authority granted to the commissioner of banking, insurance, securities, and health care administration under that section. Upon the adoption of all rules required by this act, all remaining provisions of Sec. 3 as

well as Sec. 4 shall take effect.

Rep. Wilson of Manchester, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Commerce and Economic Development and when further amended as follows:

In Sec. 3, by striking §7117 in its entirety and inserting in lieu thereof a new § 7117 to read as follows:

§ 7117. FEES AND COSTS

(a) To cover the costs of processing and reviewing a plan under this chapter, the transferring insurer shall pay to the commissioner the following nonrefundable fees at the times set forth in subsections 7114(a) and 7116(a) of this chapter:

(1) an administrative fee in the amount of \$30,000.00; and

(2) the reasonable cost of persons retained by the commissioner under subsection 7115(a) of this chapter.

(b) When a plan is approved, the assuming insurer shall pay the commissioner a transfer fee equal to the sum of:

(1) One percent of the first \$100,000,000.00 of the gross liabilities transferred, including direct and assumed unpaid claims, losses, and loss adjustment expenses with no reductions for amounts ceded; and

(2) 0.5 percent of the gross liabilities transferred, including direct and assumed unpaid claims, losses, and loss adjustment expenses with no reductions for amounts ceded that exceed \$100,000,000.00.

(c) All fees and payments received by the department under subsection 7117(a) of this chapter and 10 percent of the transfer fee under subsection 7117(b) of this chapter shall be credited to the insurance regulatory and supervision fund under section 80 of this title. The remaining 90 percent of the transfer fee shall be deposited directly into the general fund.

Thereupon, the bill was read the second time.

Thereupon, **Rep. Kitzmiller of Montpelier** moved to substitute an amendment for the report of the committee on Commerce and Economic Development as follows:

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

Sec. 1. TITLE

This act shall be known as the “Insurance Business Transfer Act.”

Sec. 2. FINDINGS AND PURPOSE

(a) The Vermont general assembly finds:

(1) The creation of jobs and investment in the state of Vermont through business expansion and recruitment is of the highest importance.

(2) Vermont has created a thriving alternative risk financing industry, which has provided Vermonters with well-paying jobs and has created significant premium tax revenue for the state.

(b) The purpose of this act is to facilitate and streamline the process for transfers of closed blocks of commercial insurance policies and reinsurance agreements between solvent insurance companies.

Sec. 3. 8 V.S.A. chapter 147 is added to read:

CHAPTER 147. INSURANCE BUSINESS TRANSFERS

§ 7111. DEFINITIONS

As used in this chapter:

(1) “Assuming insurer” means an insurance company that acquires an insurance obligation or risk from a transferring insurer pursuant to a plan and that is a domestic insurer that has a certificate of authority issued by the commissioner under chapter 101 of this title.

(2) “Closed block” means a block, line, or group of businesses which an insurance company ceases to offer or sell to new applicants.

(3) “Comment period” means the 60-day period starting on the date the commissioner authorizes notice regarding a plan to be issued pursuant to subsection 7114(d) of this chapter. For good cause, the comment period may be extended by the commissioner up to an additional 30 days.

(4) “Commissioner” means the commissioner of financial regulation.

(5) “Department” means the department of financial regulation.

(6) “Domicile regulator” means the insurance regulatory authority of the domicile jurisdiction of a transferring insurer if such insurance company is a foreign insurance company or an alien insurance company.

(7) “Insurance business transfer” means a policy transfer or a reinsurance transfer.

(8) “Insurance business transfer plan” or “plan” means a plan that sets forth all provisions and includes all documentation regarding an insurance business transfer required under this chapter.

(9) “Parent company” means any person that organizes an insurance company the business of which is limited to the ownership and administration of policies and reinsurance agreements that are assumed by such insurance company under this chapter.

(10) “Party” means any person so defined under subsection 7118(c) of this chapter.

(11) “Personal lines insurance” means property and casualty coverage sold to an individual or family for primarily noncommercial purposes and includes health, automobile, life, and homeowner’s insurance.

(12) “Plan summary” means the written statement of the key terms and provisions of a plan described under subdivision 7114(b)(12) of this chapter.

(13) “Policy” means a contract of property insurance, casualty insurance, or a combination of property and casualty insurance, other than a personal lines insurance contract or an insurance contract that is subject to regulation under the workers’ compensation laws of any state, which is not a reinsurance agreement.

(14) “Policyholder” means the person identified as the policyholder or first named in a policy.

(15) “Policy transfer” means the transfer by a transferring insurer and the assumption by an assuming insurer of all rights, obligations, and liabilities of the transferring insurer with respect to a closed block of policies and any reinsurance agreements that are included in a plan.

(16) “Reinsurance agreement” means a contract of reinsurance between a transferring insurer and another insurance company with respect to which a transferring insurer is a party as the reinsurer or the reinsured.

(17) “Reinsurance transfer” means the transfer by the transferring insurer and the assumption by an assuming insurer of all rights, obligations, and liabilities of a transferring insurer with respect to a closed block of reinsurance agreements that are included in a plan which does not include the transfer or assumption of any right, liability, or obligation of the transferring insurer with respect to a policy and to the extent such transfers are not preempted under the Nonadmitted Reinsurance Reform Act, Subtitle B of Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203.

(18) "Transferring insurer" means an insurance company that transfers an insurance obligation or risk to an assuming insurer pursuant to a plan and that is a domestic insurer or a foreign or alien insurance company that has a certificate of authority issued by the commissioner under chapter 101 of this title.

§ 7112. JURISDICTION; APPEALS

(a) The commissioner shall have exclusive jurisdiction with respect to the review and approval or denial of any insurance business transfer plan.

(b) Any appeal of an order of the commissioner issued under section 7116 of this chapter shall be to the supreme court only, and such review shall be on the record and not de novo.

§ 7113. EXCLUDED TRANSACTIONS

This chapter shall not apply to any transfer of a policy or reinsurance agreement if all parties with an interest in the policies and reinsurance agreements being transferred have approved the transfer and the transfer is otherwise permitted under applicable law, including chapter 157 of this title.

§ 7114. APPLICATION FOR APPROVAL; INSURANCE BUSINESS TRANSFER PLAN

(a) A transferring insurer and an assuming insurer shall file a plan with the commissioner and, at the time of filing, shall pay to the commissioner the fee described in subdivision 7117(a)(1) of this chapter.

(b) A plan shall include the following:

(1) a list of all parties, policies, and reinsurance agreements included in the plan and the identity of any parent company of the assuming insurer;

(2) certificates issued by the domicile regulators of the transferring insurer and the assuming insurer and, if applicable, a parent company that is a regulated insurance company, each attesting to the good standing of the transferring insurer, the assuming insurer, and the parent company under the insurance regulatory laws of the jurisdiction of their respective domicile regulator; provided that, if such certificates are not obtainable under the laws or practices of a domicile regulator, a certificate of an officer of the transferring insurer, the assuming insurer, or the parent company, as applicable, attesting to the foregoing;

(3) a statement describing the terms of each policy and reinsurance agreement, if any, regarding assignment and assumption of the rights,

liabilities, and obligations of the transferring insurer with respect to each policy and reinsurance agreement;

(4) the most recent audited financial statements and annual reports filed by the transferring insurer and the assuming insurer with their respective domicile regulators and such financial information with respect to a parent company, if any, with respect to the plan that the commissioner may reasonably require;

(5) an actuarial study that quantifies the liabilities to be transferred to the assuming insurer under the policies and reinsurance agreements;

(6) the form and amount of consideration payable by the transferring insurer and proforma financial statements that demonstrate the solvency of the transferring insurer commensurate with the nature of the insurance business transfer after the transfer is effective;

(7) proforma financial statements that demonstrate the solvency of the assuming insurer commensurate with the nature of the insurance business transfer after the transfer is effective;

(8) officer certificates of the transferring insurer and the assuming insurer attesting that each has obtained all required internal approvals regarding the insurance business transfer;

(9) the form of notice to be provided to a party under this chapter and how such notice shall be provided;

(10) a statement regarding any pending dispute between the transferring insurer and any policyholder or party to a reinsurance agreement or of a disputed claim by any third party with respect to any policy or reinsurance agreement that is included in the plan;

(11) the statement described in subsection (c) of this section regarding the information and documents submitted as part of or with respect to a plan that are confidential;

(12) a plan summary that includes all information regarding the plan as reasonably required by the commissioner; and

(13) any other information that the commissioner may reasonably require with respect to the plan in the exercise of his or her reasonable discretion.

(c) The plan shall include a statement of the information and documentation included in the plan that the assuming insurer or the transferring insurer may request be given confidential treatment, which in all

cases shall include all information identifying the persons insured under a policy and which may include any information that qualifies as a trade secret or other confidential research, development, or commercial information of the transferring insurer or the assuming insurer. The commissioner, subject to the exercise of his or her reasonable discretion, shall determine whether the information designated in such statement qualifies for confidential treatment. Any information qualifying for confidential treatment shall not be subject to subpoena and shall not be made public by the commissioner or by any other person; provided, however, the commissioner may in his or her discretion grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country, to public officers of an international financial regulatory authority, or to state or federal law enforcement officers pursuant to a validly issued subpoena or search warrant, provided that such officers receiving the information agree in writing to hold it in a manner consistent with this section.

(d) Within 10 days of the date the application is filed and the fee payable under subsection (a) of this section is paid in full, the commissioner shall notify the transferring insurer and the assuming insurer whether the notice described in subsection (e) of this section shall be issued. If the commissioner notifies the transferring insurer and the assuming insurer that such notice shall not be issued, the commissioner shall specify any modifications to the plan and additional information or documentation with respect to the plan that are required before such notice shall be issued. If the commissioner notifies the transferring insurer and the assuming insurer that the notice described in subsection (e) of this section shall be issued, the commissioner shall set a date for a hearing on the plan as required under subsection (g) of this section.

(e) Within 30 days of the date the commissioner notifies the transferring insurer and the assuming insurer pursuant to subsection (d) of this section that notice shall be issued, the transferring insurer shall provide notice to all parties that:

(1) complies with the plan and the provisions of 3 V.S.A. § 809(b);

(2) includes the plan summary, the date, time, and place of the hearing on the plan, and a statement of the right of each party to file written comments on the plan with the commissioner or to appear and present evidence regarding the plan at the hearing or both;

(3) includes all other information reasonably required by the commissioner; and

(4) is published in two newspapers of general nationwide circulation on two separate occasions, as determined by the commissioner.

(f) During the comment period:

(1) any party may file written comments on the plan with the commissioner; and

(2) the transferring insurer and the assuming insurer shall file with the commissioner such additional documentation and information regarding the plan as the commissioner may reasonably require.

(g) The hearing on the plan shall be held not later than 60 days after the end of the comment period. Any party that participates in such a hearing shall bear its own costs of participation, including attorney's fees.

§ 7115. PLAN REVIEW

(a) The commissioner shall retain an actuary to conduct an actuarial study quantifying the liabilities to be transferred to the assuming insurer under the policies and reinsurance agreements and is authorized to retain any other legal, financial, and examination services from outside the department to assist in the review of the plan.

(b) In reviewing the plan, the commissioner shall take into account all written comments filed with respect to the plan and evidence taken at the hearing on the plan and any other factors that the commissioner reasonably deems relevant with respect to the plan, but in all cases the commissioner shall consider and determine each of the following:

(1) the solvency of the transferring insurer and the assuming insurer both before and after the implementation of the proposed plan;

(2) the ability of the assuming insurer to comply with all requirements of a policy and reinsurance agreements in the case of a policy transfer or with all requirements of reinsurance agreements in the case of a reinsurance transfer, including administration of claims in process as of and after the effective date of the transfer;

(3) the plan does not materially adversely affect either the interests of objecting parties or the interests of policyholders; and

(4) the fairness of the plan to all parties.

§ 7116. ORDER

(a) Within 30 days of the date the hearing is held on the plan, the commissioner shall issue an order setting forth the amount of fees payable by the transferring insurer under subdivision 7117(a)(2) of this chapter, payable not later than 14 days after the date of such order. Upon receipt of such payment the commissioner shall within five days issue an order that complies

with subsection 7118(c) of this chapter approving or disapproving the plan in whole or in part. Whenever it is not practicable to issue an order within 30 days, the commissioner may extend such time up to an additional 30 days. If the order approves the plan, it shall:

(1) set forth the fee payable by the assuming insurer under subsection 7117(b) of this chapter, which fee shall be payable not later than 14 days after the date of such order;

(2) not be effective until such time as the fees described in this subsection have been paid in full.

(b) An order issued pursuant to subsection (a) of this section approving the plan shall transfer to the assuming insurer all of the transferring insurer's rights, obligations, liabilities, and assets with respect to each policy and reinsurance agreement that is subject to the plan such that the transferring insurer has no further rights, obligations, or liabilities with respect to such policies and reinsurance agreements and the assuming insurer has all such rights, obligations, and liabilities as if it, instead of the transferring insurer, were the original party to such agreement.

(c) The commissioner may issue any other orders that he or she reasonably deems necessary to fully implement an order issued under subsection (a) of this section.

(d) No order issued under subsection (a) or (c) of this section shall be construed to modify or amend the terms of a policy or reinsurance agreement, other than with respect to matters specifically subject to modification or amendment under this chapter.

(e) If a policy or reinsurance agreement contains a provision prohibiting the transfer of the policy or reinsurance agreement without the consent of the policyholder or other person, then such policy or reinsurance agreement shall not be transferred under this chapter unless the applicable policyholder or other person provides written consent to the proposed transfer.

(f) If a party objects to a plan, the commissioner may not approve the plan with respect to such party unless the commissioner determines that the plan:

(1) does not materially adversely affect the objecting party;

(2) is in the public interest; and

(3) otherwise complies with the requirements of this chapter.

(g) At any time before the commissioner issues the order described in subsection (a) of this section, the transferring insurer and the assuming insurer

may file an amendment to the plan subject to rules adopted by the commissioner.

(h) At any time before the commissioner issues the order described in subsection (a) of this section, either the transferring insurer or the assuming insurer may withdraw the plan without prejudice. Upon such withdrawal, however, the commissioner shall issue an order setting forth the amount of fees payable by the transferring insurer under subdivision 7117(a)(2) of this chapter, payable not later than 14 days after the date of such order.

§ 7117. FEES AND COSTS

(a) To cover the costs of processing and reviewing a plan under this chapter, the transferring insurer shall pay to the commissioner the following nonrefundable fees at the times set forth in subsections 7114(a) and 7116(a) of this chapter:

(1) an administrative fee in the amount of \$30,000.00; and

(2) the reasonable cost of persons retained by the commissioner under subsection 7115(a) of this chapter.

(b) When a plan is approved, the assuming insurer shall pay the commissioner a transfer fee equal to the sum of:

(1) One percent of the first \$100,000,000.00 of the gross liabilities transferred, including direct and assumed unpaid claims, losses, and loss adjustment expenses with no reductions for amounts ceded; and

(2) 0.5 percent of the gross liabilities transferred, including direct and assumed unpaid claims, losses, and loss adjustment expenses with no reductions for amounts ceded that exceed \$100,000,000.00.

(c) All fees and payments received by the department under subsection 7117(a) of this chapter and 10 percent of the transfer fee under subsection 7117(b) of this chapter shall be credited to the insurance regulatory and supervision fund under section 80 of this title. The remaining 90 percent of the transfer fee shall be deposited directly into the general fund.

§ 7118. APPLICABLE LAWS

(a) In the event of any conflict between a provision of this chapter and any other provision of this title, such provision of this chapter shall control. Without limitation of the foregoing, chapter 157 of this title shall not apply to any insurance business transfer under this chapter.

(b) A Vermont insured shall be entitled to receive any benefit under subchapter 9 (property and casualty insurance guaranty association) of chapter

101 of this title for claims arising out of any policy that is subject to an insurance business transfer under this chapter.

(c) A proposed insurance business transfer shall be a “contested case” under chapter 25 of Title 3, except that a “party” shall be limited to the transferring insurer, the assuming insurer, each counterparty to a reinsurance agreement, each policyholder in the case of a policy transfer only, and any other person the commissioner approves as a party with respect to such proceeding.

§ 7119. ASSUMING INSURERS

No assuming insurer shall be a party to an insurance business transfer under this chapter unless:

(1) its board of directors or committee of managers holds at least one meeting each year in this state;

(2) it maintains its principal place of business in this state; and

(3) it appoints a registered agent to accept service of process and to otherwise act on its behalf in this state; provided that whenever such registered agent cannot with reasonable diligence be found at the registered office of the assuming insurer, the secretary of state shall be an agent of such insurer upon whom any process, notice, or demand may be served.

§ 7120. POSTING OF PLANS ON WEBSITE

The commissioner shall require that all plans filed with the department are posted on the department’s website, along with any other notice or other information the commissioner deems appropriate.

§ 7121. REGULATION OF INSURERS AND SERVICE PROVIDERS

(a) Except as provided in subsection (b) of this section, a transferring insurer and an assuming insurer shall be subject to all provisions of this title and all rules adopted by the commissioner under this title applicable to property and casualty insurance companies domiciled or licensed in this state.

(b) The commissioner shall adopt rules regarding the provision of services to an assuming insurer by persons other than any director, officer, or employee of such assuming insurer with respect to the administration of policies and reinsurance agreements assumed by such assuming insurer pursuant to an insurance business transfer, including any licensing or other requirements.

(c) The commissioner may adopt any other rules necessary or appropriate to carry out the provisions of this chapter. Such rules shall ensure that the insurance business transfers authorized by this chapter take into account any

rights and obligations arising under the laws of the domicile jurisdiction of any affected insurers and policyholders.

Sec. 4. INSURANCE BUSINESS TRANSFERS; REPORTS

(a) Interim report. On or before January 15, 2013, the commissioner of financial regulation shall submit to the house committee on commerce and economic development and the senate committee on finance a report summarizing the rulemaking process authorized under Sec. 3 of this act, including the major issues raised by interested parties. The interim report shall include also a description of the number and nature of any insurance business transfer plans expected to be filed under 8 V.S.A. chapter 147, as well as the commissioner's recommendations, if any, for statutory amendments to 8 V.S.A. chapter 147.

(b) Final report. On or before January 15, 2014, the commissioner of financial regulation shall submit to the house committee on commerce and economic development and the senate committee on finance a report describing the number and nature of insurance business transfer plans filed under 8 V.S.A. chapter 147 and their current status. The report shall include also the commissioner's recommendations, if any, for statutory amendments to 8 V.S.A. chapter 147.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1, 2, and 4 of this act shall take effect on passage.

(b) Sec. 3 of this act shall take effect on passage only with respect to the rulemaking authority granted to the commissioner of financial regulation under that section. The remaining provisions of Sec. 3 of this act shall take effect May 1, 2013, provided all rules required under Sec. 3 of this act have been adopted.

Which was agreed to.

Thereupon, **Rep. Wilson of Manchester** asked and was granted leave of the House to withdraw the report of the committee on Ways and Means and the report of the committee on Commerce and Economic Development, as amended, was agreed to and third reading ordered.

Message from the Senate No. 44

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 57. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Senate has considered House proposals of amendment to the following Senate bills and has refused to concur therein and asks for Committees of Conference upon the disagreeing votes of the two Houses to which the President announced the appointment as members of such Committees on the part of the Senate:

S. 116. An act relating to probate proceedings.

Senator Sears
Senator Flory
Senator Nitka

S. 199. An act relating to immunization exemptions and the immunization pilot program.

Senator Mullin
Senator Ayer
Senator Campbell

Proposal of Amendment Agreed to; Third Reading Ordered

S. 106

Rep. Higley of Lowell, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to miscellaneous changes to municipal government law

Recommended that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Violations; Penalties * * *

Sec. 1. 10 V.S.A. § 2675 is amended to read:

§ 2675. PENALTIES

A person who commits a violation under subsection 2645(a) or 2648(a) of this title shall be subject to a fine of not more than ~~\$25.00~~ \$75.00 per violation. In the case of a violation which continues after the issuance of a fire prevention complaint, each day's continuance may be deemed a separate violation.

Sec. 2. 24 V.S.A. § 1974a is amended to read:

§ 1974a. ENFORCEMENT OF CIVIL ORDINANCE VIOLATIONS

(a) A civil penalty of not more than ~~\$500.00~~ \$800.00 may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation.

(b) All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is ~~\$500.00~~ \$800.00 or less, shall be brought before the judicial bureau pursuant to Title 4 and this chapter. If the penalty for all continuing civil ordinance violations is greater than ~~\$500.00~~ \$800.00, or injunctive relief, other than as provided in subsection (c) of this section, is sought, the action shall be brought in the criminal division of the superior court, unless the matter relates to enforcement under chapter 117 of this title, in which instance the action shall be brought in the environmental division of the superior court.

* * *

Sec. 3. 24 V.S.A. § 4451 is amended to read:

§ 4451. ENFORCEMENT; PENALTIES

(a) Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than ~~\$100.00~~ \$200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. In default of payment of the fine, the person, the members of any partnership, or the principal officers of the corporation shall each pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

(b) Any person who, being the owner or agent of the owner of any lot, tract, or parcel of land, lays out, constructs, opens, or dedicates any street, sanitary sewer, storm sewer, water main, or other improvements for public use,

travel, or other purposes or for the common use of occupants of buildings abutting thereon, or sells, transfers, or agrees or enters into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erects any structure on that land, unless a final plat has been prepared in full compliance with this chapter and the bylaws adopted under this chapter and has been recorded as provided in this chapter, shall be fined not more than ~~\$100.00~~ \$200.00, and each lot or parcel so transferred or sold or agreed or included in a contract to be sold shall be deemed a separate violation. All fines collected for these violations shall be paid over to the municipality whose bylaw has been violated. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from these penalties or from the remedies provided in this chapter.

* * * Damages by Dogs * * *

Sec. 4. REPEAL

20 V.S.A. §§ 3741 (election of remedy), 3742 (notice of damage; appraisal), 3743 (examination of certificate), 3744 (fees and travel expenses), 3745 (identification and killing of dogs), 3746 (action against town), and 3747 (action by town against owner of dogs) are repealed.

Sec. 5. 20 V.S.A. § 3622 is amended to read:

§ 3622. FORM OF WARRANT

Such warrant shall be in the following form:

State of Vermont:)
)
 _____ County, ss.)

To _____, constable or police officer of the town or city of _____:

By the authority of the state of Vermont, you are hereby commanded forthwith to impound ~~and destroy in a humane way or cause to be destroyed in a humane way~~ all dogs and wolf-hybrids not duly licensed according to law, except as exempted by ~~section 20 V.S.A. § 3587 of 20 V.S.A.~~; and you are further required to make and return complaint against the owner or keeper of any such dog or wolf-hybrid. A dog or wolf-hybrid that is impounded may be transferred to an animal shelter or rescue organization for the purpose of finding an adoptive home for the dog or wolf-hybrid. If the dog or wolf-hybrid

cannot be placed in an adoptive home or transferred to a humane society or rescue organization within ten days, or a greater number of days established by the municipality, the dog or wolf-hybrid may be destroyed in a humane way.

Hereof fail not, and due return make of this warrant, with your doings thereon, within 90 days from the date hereof, stating the number of dogs or wolf-hybrids destroyed and the names of the owners or keepers thereof, and whether all unlicensed dogs or wolf-hybrids in such town (or city) have been destroyed, and the names of persons against whom complaints have been made under the provisions of 20 V.S.A. chapter 193, subchapters 1, 2, and 4 ~~of chapter 193 of 20 V.S.A.~~, and whether complaints have been made and returned against all persons who have failed to comply with the provisions of such subchapter.

Given under our (my) hands at _____ aforesaid, this _____ day of _____, 19 20 ____.

Legislative Body

* * * Taxes * * *

Sec. 6. 24 V.S.A. § 1535 is amended to read:

§ 1535. ABATEMENT

(a) The board may abate in whole or part taxes, interest, ~~and~~ or collection fees, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

* * *

* * * General Municipal Powers and Duties * * *

Sec. 7. 24 V.S.A. § 1972 is amended to read:

§ 1972. PROCEDURE

(a)(1) The legislative body of a municipality desiring to adopt an ordinance or rule may adopt it subject to the petition set forth in section 1973 of this title and shall cause it to be entered in the minutes of the municipality and posted in at least five conspicuous places within the municipality. ~~The full text of the ordinance or rule, or a concise summary of it including a statement of purpose, principal provisions, and table of contents or list of section headings, shall be published~~ legislative body shall arrange for one formal publication of the ordinance or rule or a concise summary thereof in a newspaper circulating in the municipality on a day not more than 14 days following the date when the

proposed provision is so adopted. ~~Along with the concise summary shall be published a reference to a place within the municipality where the full text may be examined. When the text or concise summary of an ordinance is published, the~~ Information included in the publication shall be the name of the municipality; the name of the municipality's website, if the municipality actively updates its website on a regular basis; the title or subject of the ordinance or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text may be examined. ~~The same notice shall explain citizens' rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in section 1973 of this title, and shall also contain the name, address and telephone number of a person with knowledge of the ordinance or rule who is available to answer questions about it.~~

(2) Unless a petition is filed in accordance with section 1973 of this title, the ordinance or rule shall become effective 60 days after the date of its adoption, or at such time following the expiration of 60 days from the date of its adoption as is determined by the legislative body. If a petition is filed in accordance with section 1973 of this title, the taking effect of the ordinance or rule shall be governed by ~~section~~ subsection 1973(e) of this title.

* * *

(c) The procedure herein provided shall apply to the adoption of any ordinance or rule by a municipality unless another procedure is provided by charter, special law, or particular statute.

Sec. 8. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(4) To regulate the operation and use of vehicles of every kind including the power: to erect traffic signs and signals; to regulate the speed of vehicles subject to 23 V.S.A. ~~§§ 1141-1147~~ chapter 13, subchapter 12; to regulate or exclude the parking of all vehicles; and to provide for waiver of the right of appearance and arraignment in court by persons charged with parking violations by payment of specified fines within a stated period of time.

* * *

(6) To regulate the location, installation, maintenance, repair, and removal of utility poles, wires and conduits, water pipes or mains, or gas mains and sewers, upon, under, or above public highways or public property of the municipality.

(7) To regulate or prohibit the erection, size, structure, contents, and location of signs, posters, or displays on or above any public highway, sidewalk, lane, or alleyway of the municipality and to regulate the use, size, structure, contents, and location of signs on private buildings or structures.

(8) To regulate or prohibit the use or discharge, but not possession of, firearms within the municipality or specified portions thereof, provided that an ordinance adopted under this subdivision shall be consistent with section 2295 of this title and shall not prohibit, reduce, or limit discharge at any existing sport shooting range, as that term is defined in 10 V.S.A. § 5227.

(9) To license or regulate itinerant vendors, peddlers, door-to-door salesmen, and those selling goods, wares, merchandise, or services who engage in a transient or temporary business, or who sell from an automobile, truck, wagon, or other conveyance, excepting persons selling fruits, vegetables, or other farm produce.

* * *

(11) To regulate, license, tax, or prohibit circuses, carnivals and menageries, and all plays, concerts, entertainments, or exhibitions of any kind for which money is received.

* * *

(14) To define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety, or welfare may require.

* * *

(16) To name and rename streets and to number and renumber lots pursuant to section ~~4421~~ 4463 of this title.

* * *

* * * Poor Relief * * *

Sec. 9. 24 V.S.A. § 1236 is amended to read:

§ 1236. POWERS AND DUTIES IN PARTICULAR

The manager shall have authority and it shall be his or her duty:

* * *

(2) To perform all duties now conferred by law upon the ~~selectmen~~ selectboard, except that he or she shall not prepare tax bills, sign orders on the general fund of the town, ~~other than orders for poor relief~~, call special or annual town meetings, lay out highways, establish and lay out public parks, make assessments, award damages, act as member of the board of civil authority, nor make appointments to fill vacancies which the ~~selectmen are~~ selectboard is now authorized by law to fill; but he or she shall, in all matters herein excepted, render the ~~selectmen~~ selectboard such assistance as ~~they~~ it shall require;

* * *

(4) To have charge and supervision of all public town buildings, repairs thereon, and repairs of buildings of the town school district upon requisition of the school directors; and all building done by the town or town school district, unless otherwise specially voted, shall be done under his or her charge and supervision;

(5) To perform all the duties now conferred by law upon the road commissioner of the town, including the signing of orders; provided, however, that when an incorporated village lies within the territorial limits of a town which is operating under a town manager, and such village fails to pay to such town for expenditure on the roads of the town outside the village, at least ~~fifteen~~ 15 percent of the last highway tax levied in such village, the legal voters residing in such town, outside such village, may elect one or two road commissioners who shall have and exercise all powers of road commissioner within that part of such town as lies outside such village;

* * *

Sec. 10. 24 V.S.A. § 1762 is amended to read:

§ 1762. LIMITS

(a) A municipal corporation shall not incur an indebtedness for public improvements which, with its previously contracted indebtedness, shall, in the aggregate, exceed ten times the amount of the last grand list of such municipal corporation. Bonds or obligations given or created in excess of the limit authorized by this subchapter and contrary to its provisions shall be void.

(b) However, the provisions of this subchapter as to the debt limit shall not apply to bonds issued under sections 1752; or 1754 ~~and 1769~~ of this title, relating to the ordinary expenses of a municipality, ~~nor to bonds issued for poor relief.~~

Sec. 11. REPEAL

24 V.S.A. §§ 1769 (notes and bonds for poor relief) and 1770 (application) are repealed.

* * * Glebe Lands * * *

Sec. 12. REPEAL

24 V.S.A. §§ 2404 (rents of other lands, how divided and applied) and 2405 (contract under previous law not affected) are repealed.

* * * Municipal Planning and Development * * *

Sec. 13. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

* * *

(33) "Public road" means a state highway as defined in 19 V.S.A. § 1 or a class 1, 2, or 3 town highway as defined in 19 V.S.A. § 302(a). A municipality may, at its discretion, define a public road to also include a class 4 town highway as defined in 19 V.S.A. § 302(a).

Sec. 14. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

* * *

(3) Required frontage on, or access to, public roads, class 4 town highways, or public waters. Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

* * *

Sec. 15. 24 V.S.A. § 4442 is amended to read:

§ 4442. ADOPTION OF BYLAWS AND RELATED REGULATORY TOOLS; AMENDMENT OR REPEAL

* * *

(c) Routine adoption.

(1) A bylaw, bylaw amendment, or bylaw repeal shall be adopted by a majority of the members of the legislative body at a meeting that is held after the final public hearing, and shall be effective 21 days after adoption unless, by action of the legislative body, the bylaw, bylaw amendment, or bylaw repeal is warned for adoption by the municipality by Australian ballot at a special or regular meeting of the municipality.

(2) However, a rural town ~~with a population of fewer than 2,500 persons as defined in section 4303 of this chapter~~, by vote of that town at a special or regular meeting duly warned on the issue, may elect to require that bylaws, bylaw amendments, or bylaw repeals shall be adopted by vote of the town by Australian ballot at a special or regular meeting duly warned on the issue. That procedure shall then apply until rescinded by the voters at a regular or special meeting of the town.

* * *

* * * Property; Filing of Land Plats * * *

Sec. 16. 27 V.S.A. § 1404(b) is amended to read:

(b) Survey plats prepared and filed in accordance with ~~section 4416 of Title 24 V.S.A. § 4463~~ shall be exempt from subdivision ~~1403(b)(6)~~ 1403(b)(5) of this title. Survey plats or plans filed under this exemption shall contain a title area, the location of the land and scale expressed in engineering units. In addition, they shall include inscriptions and data required by zoning and planning boards.

Sec. 17. 27 V.S.A. § 1403(b) is amended to read:

(b) Plats filed in accordance with this chapter shall also conform with the following further requirements:

* * *

(8) The recordable plat materials shall be composed in one of the following processes:

(A) fixed-line photographic process on stable base polyester film; or

(B) pigment ink on stable base polyester film or linen tracing cloth.

Sec. 18. REPEAL

27 V.S.A. § 1403(b)(8) (process for recordable plat materials) is repealed on July 1, 2013.

* * * Unorganized Towns and Gores * * *

Sec. 19. 24 V.S.A. § 1408 is amended to read:

§ 1408. SUPERVISOR; GENERAL DUTIES

~~Such~~ The supervisor shall act as selectman a selectperson in matters of road encroachment, planning, and related bylaws, as school director and truant officer, as constable, as collector of taxes and, as town clerk in the matter of licensing dogs, and as town clerk and board of civil authority in the matter of tax appeals from the decisions of the board of appraisers.

Sec. 20. 32 V.S.A. § 4408 is amended to read:

§ 4408. HEARING BY BOARD

(a) On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

~~(b) Ad hoc board for unorganized towns and gores. For purposes of hearing appeals under this subchapter only, the supervisor shall create an ad hoc board composed of:~~

~~(1) the supervisor; and~~

~~(2) one member from each adjoining municipality's board of civil authority, to be appointed by each respective board of civil authority, representing no fewer than three and no more than five of the adjoining municipalities, at the discretion of the supervisor. [Repealed.]~~

~~(c) The ad hoc board provided for in subsection (b) of this section shall, for purposes of hearing appeals under this subchapter only, act as a board of civil authority, and an aggrieved party shall have further appeal rights as though the party had appealed to a board of civil authority. [Repealed.]~~

* * * Unified Towns and Gores in Essex County * * *

Sec. 21. REIMBURSEMENT FOR GRIEVANCE HEARING

EXPENDITURES

(a) A unified town or gore shall be entitled to claim reimbursement for expenditures incurred in conducting grievance hearings when:

(1) the hearing was held between July 1, 2009 and February 23, 2011;

(2) the expenditures related to hiring a person or persons to participate in the grievance hearing; and

(3) the expenditures were necessary to comply with 32 V.S.A. § 4408.

(b) Claims shall be filed with the department of taxes within 60 days of the effective date of this act, with receipts or other documentation as the department may require.

* * * Public Service; Renewable Pilot Program * * *

Sec. 22. 30 V.S.A. § 8102 is amended to read:

§ 8102. INCENTIVES; ~~CUSTOMER CONNECTIONS~~

(a) ~~Notwithstanding any other provision of law, the~~ The clean energy development fund created under ~~10 V.S.A. § 6523~~ section 8015 of this title shall provide at least \$100,000.00 in incentives to customers who will connect to a certified Vermont village green renewable project. Any such incentive shall be applied by the customer to the cost of constructing the customer's connection to the project.

(b) Notwithstanding the provisions of subsection (a) of this section or any other law, on and after April 1, 2012, the clean energy development fund shall make up to \$100,000.00 of funds that would otherwise have been available to customers connecting to Vermont village green renewable projects under this section available to other district heating on a competitive basis. The use of such funds shall not be limited to customer connections. For the purpose of this subsection, it shall not be necessary that the district heating be proposed by a municipality, serve a downtown development district or growth center under 24 V.S.A. § 2793 or 2793c, or obtain certification under this chapter.

* * * Auditor of Accounts; Internal Financial Controls * * *

Sec. 23. 32 V.S.A. § 163 is amended to read:

§ 163. DUTIES OF THE AUDITOR OF ACCOUNTS

In addition to any other duties prescribed by law, the auditor of accounts shall:

* * *

~~(6) Report on or before February 15 of each year to the house and senate committees on appropriations in which he or she shall summarize significant findings, and make such comments and recommendations as he or she finds necessary. [Repealed.]~~

* * *

(11) Make available to all counties, municipalities, and supervisory unions as defined in 16 V.S.A. § 11(23) and supervisory districts as defined in 16 V.S.A. § 11(24) a document designed to determine the internal financial controls in place to assure proper use of all public funds. The auditor shall consult with the Vermont School Boards Association, the Vermont Association of School Business Officials, and the Vermont League of Cities and Towns in the development of the document. The auditor shall strive to limit the document to one letter-size page. The auditor shall also make available to public officials charged with completing the document instructions to assist in its completion.

(12) Make available to all county, municipality, and school district officials with fiduciary responsibilities an education program. The program shall provide instruction in fiduciary responsibility, faithful performance of duties, the importance and components of a sound system of internal financial controls, and other topics designed to assist the officials in performing the statutory and fiduciary duties of their offices. The auditor shall consult with the Vermont School Boards Association, the Vermont Association of School Business Officials, and the Vermont League of Cities and Towns in the development of the education program.

Sec. 24. AUDITOR WEBSITE; AUDIT FINDINGS

(a) By July 1, 2012, the auditor of accounts shall prominently post on his or her official state website the following information:

(1) a summary of all embezzlements and other financial fraud against any agency or department of the state committed within the last five years, whether committed by a state employee, contractor, or other person. The summary shall include any charges brought with respect to or adjudication of that embezzlement or financial fraud and shall be updated within 30 days of the auditor of account's being informed of the embezzlement or other financial fraud and any charges or adjudication; and

(2)(A) all reports with findings that result from audits conducted under 32 V.S.A. § 163(1); and

(B) a summary of significant recommendations arising out of the audits that are contained in audit reports conducted under 32 V.S.A. § 163(1) and issued since January 1, 2012, and the dates on which corrective actions were taken related to those recommendations. Recommendation follow-up shall be conducted at least biennially and for at least four years from the date of the audit report.

(b) The auditor of accounts shall notify the general assembly of the initial posting made on his or her website pursuant to subsection (a) of this section by electronic or other means.

* * * Municipalities; Internal Financial Controls * * *

Sec. 25. 24 V.S.A. § 832 is amended to read:

§ 832. BONDS; REQUIREMENTS

Before the school directors, constable, road commissioner, collector of taxes, treasurer, assistant treasurer when appointed by the ~~selectmen~~ selectboard, ~~and clerk, and any other officer or employee of the town who has authority to receive or disburse town funds~~ enter upon the duties of their offices, the ~~selectmen~~ selectboard shall require each to give a bond conditioned for the faithful performance of his or her duties; the school directors, to the town school district; the other named officers, to the town. The treasurer, assistant treasurer when appointed by the ~~selectmen~~ selectboard, and collector shall also be required to give a bond to the town school district for like purpose. All such bonds shall be in sufficient sums and with sufficient sureties as prescribed and approved by the ~~selectmen~~ selectboard. If the ~~selectmen~~ selectboard at any time ~~consider~~ considers a bond of any such officer or employee to be insufficient, ~~they~~ it may require, by written order, ~~such the officer or employee~~ such the officer or employee to give an additional bond in such sum as ~~they deem it~~ deems necessary. If an officer or employee, so required, neglects for ten days after such request to give such original or additional bond, his or her office shall be vacant. A bond furnished pursuant to the provisions of this section shall not be valid if signed by any other officer of the same municipality as surety thereon.

Sec. 26. 24 V.S.A. § 872 is amended to read:

§ 872. ~~SELECTMEN~~ SELECTBOARD; GENERAL POWERS AND
DUTIES

(a) The ~~selectmen~~ selectboard shall have the general supervision of the affairs of the town and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer.

(b) The selectboard shall annually, on or before July 31, acknowledge receipt of and review the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11) regarding internal financial controls and which has been completed and provided to the selectboard by the treasurer pursuant to section 1571 of this title.

(c) The selectboard may require any other officer or employee of the town who has the authority to receive or disburse town funds to complete and provide to the selectboard a copy of the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11). The officer or employee shall complete and provide the document to the selectboard within 30 days of the selectboard's requirement. The selectboard shall acknowledge receipt of and review the completed document within 30 days of receiving it from the officer or employee.

Sec. 27. 24 V.S.A. § 1571 is amended to read:

§ 1571. ACCOUNTS; REPORTS

(a) The town treasurer shall keep an account of moneys, bonds, notes, and evidences of debt paid or delivered to him or her, and of moneys paid out by him or her for the town and the town school district, which accounts shall at all times be open to the inspection of persons interested.

(b) Moneys received by the town treasurer on behalf of the town may be invested and reinvested by the treasurer with the approval of the legislative body.

(c) The town treasurer shall file quarterly reports with the legislative body regarding his or her actions set forth in subsections (a) and (b) of this section.

(d) The town treasurer shall annually, on or before June 30, complete and provide to the selectboard a copy of the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11) regarding internal financial controls.

Sec. 28. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.

* * *

* * * Supervisory Unions and Supervisory Districts;

Internal Financial Controls * * *

Sec. 29. 16 V.S.A. § 242a is added to read:

§ 242a. INTERNAL FINANCIAL CONTROLS

(a) The superintendent or his or her designee shall annually, on or before December 31, complete and provide to the supervisory union board and to all member district boards a copy of the document regarding internal financial controls made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11).

(b) The supervisory union board shall review the document provided by the superintendent within two months of receiving it.

Sec. 30. EFFECTIVE DATE

This act shall take effect on July 1, 2012 except for the following sections, which shall take effect on passage:

(1) Sec. 22 (amending 30 V.S.A. § 8102); and

(2) Sec. 24 (auditor website; audit findings).

and that after passage the title of the bill be amended to read: “An act relating to miscellaneous changes to municipal government law and to internal financial controls”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment offered by the committee Government Operations agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 203

Rep. Strong of Albany, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to child support enforcement

Reported that it has considered the same and recommended that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 466(f) is added to read:

(f) When an obligor is referred to an employment services program, the magistrate may require the program to file periodic written reports with the court regarding the obligor's progress and cooperation with the program requirements. Such reports shall be admissible in an enforcement or contempt proceeding without the appearance of a witness from the program unless there is a dispute with respect to the authenticity of the report or the obligor disputes the facts set forth in the report concerning the obligor's performance and the facts in dispute are relevant to the determination of the issues before the court.

Sec. 2. 15 V.S.A. § 603 is amended to read:

§ 603. CONTEMPT

~~(a) A person who disobeys a lawful order or decree of a court or judge, made under the provisions of this chapter, may be proceeded against for contempt as provided by 12 V.S.A. § 122. The department for children and families may institute such proceedings in all cases in which a party or dependent children of the parties are the recipients of financial assistance from the department~~ Nonfinancial obligations. If a person disobeys a lawful order of the family division made under the provisions of this chapter and the order does not relate to payment of a financial obligation, the person may be subject to proceedings for civil contempt as provided by 12 V.S.A. § 122.

~~(b) For contempt of an order or decree made under the provisions of this chapter, the court may:~~

~~(1) order restitution to the department;~~

~~(2) order payments be made to the department for distribution;~~

~~(3) order a party to serve not more than 30 days of preapproved furlough as provided in 28 V.S.A. § 808(a)(7); or~~

~~(4) make such other orders or conditions as it deems proper~~

Financial obligations. If a person disobeys a lawful order of the family division made under the provisions of this chapter and the order creates a financial obligation, including payment of child support, spousal maintenance, or a lump sum property settlement, the person may be subject to proceedings

for civil contempt as provided by 12 V.S.A. § 122 and the provisions set forth herein.

(c) Parties. The office of child support may institute proceedings in all cases in which the office provides services under Title IV-D of the Social Security Act to either or both parties.

(d) Notice of hearing. The person against whom the contempt proceedings are brought shall be served with a notice of a hearing ordering the person to appear at the hearing to show cause why he or she should not be held in contempt. The notice shall inform the person that failure to appear at the hearing may result in the issuance of an arrest warrant directing a law enforcement officer to transport the person to court.

(e) Rebuttable presumption of ability to comply. A person who is subject to a court-ordered financial obligation and who has received notice of such obligation shall be presumed to have the ability to comply with the order. In a contempt proceeding, the noncomplying party may overcome the presumption by demonstrating that, due to circumstances beyond his or her control, he or she did not have the ability to comply with the court-ordered obligation.

(f) Finding of contempt. A person may be held in contempt of court if the court finds all of the following:

(1) The person knew or reasonably should have known that he or she was subject to a court-ordered obligation.

(2) The person has failed to comply with the court order. If the failure to comply involves a failure to pay child support or spousal maintenance, the person who brings the action has the burden to establish the total amount of the obligation, the amount unpaid, and any unpaid surcharges or penalties.

(3) The person has willfully violated the court order in that he or she had the ability to comply with the order and failed to do so.

(g) Findings of fact. The court shall make findings of fact on the record based on the evidence presented which may include direct or circumstantial evidence.

(h) Order upon finding of contempt. Upon a finding of contempt, the court shall determine appropriate sanctions to obtain compliance with the court order. The court may order any of the following:

(1) The person to perform a work search and report the results of his or her search to the court or to the office of child support, or both.

(2) The person to participate in an employment services program, which may provide referrals for employment, training, counseling, or other services, including those listed in section 658 of this title. Any report provided from such a program shall be presumed to be admissible without the appearance of a witness from the program in accordance with the provisions in 4 V.S.A. § 466(f).

(3) The person to appear before a reparative board. The person shall return to court for further orders if:

(A) the reparative board does not accept the case; or

(B) the person fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.

(4) Incarceration of the person unless he or she complies with purge conditions established by the court. A court may order payment of all or a portion of the unpaid financial obligation as a purge condition, providing that the court finds that the person has the present ability to pay the amount ordered and sets a date certain for payment. If the purge conditions are not met by the date established by the court and the date set for payment is within 30 days of finding of ability to pay, the court may issue a mittimus placing the contemnor in the custody of the commissioner of corrections.

(A) As long as the person remains in the custody of the commissioner of corrections, the court shall schedule the case for a review hearing every 15 days.

(B) The commissioner shall immediately release such a person from custody upon the contemnor's compliance with the purge conditions ordered by the court.

(C) The commissioner may, in his or her sole discretion, place the contemnor on home confinement furlough or work crew furlough without prior approval of the court.

(5) Orders and conditions as the court deems appropriate.

(i) Finding of present ability to pay. A finding of present ability to pay a purge condition shall be effective for up to 30 days from the date of the finding. In determining present ability to pay for purposes of imposing necessary and appropriate coercive sanctions to bring the noncomplying person into compliance and purge the contempt, the court may consider:

(1) A person's reasonable ability to use or access available funds or other assets to make all or a portion of the amount due by a date certain set by the court.

(2) A person's reasonable ability to obtain sufficient funds necessary to pay all or a portion of the amount due by a date certain set by the court, as demonstrated by the person's prior payment history and ability to comply with previous contempt orders.

Sec. 3. 15 V.S.A. § 653 is amended to read:

§ 653. DEFINITIONS

As used in this subchapter:

(1) "Available income" means gross income, less:

(A) the amount of spousal support or preexisting child support obligations, including any court-ordered periodic repayment toward arrearages, actually paid;

* * *

(7) "Self-support reserve" means the needs standard established annually ~~by the commissioner for children and families which shall be an amount sufficient to provide a reasonable subsistence compatible with decency and health. The needs standard shall take into account the available income of the parent responsible for payment of child support, and calculated at 120 percent of the United States Department of Health and Human Services poverty guideline per year for a single individual.~~

* * *

Sec. 4. 15 V.S.A. § 658 is amended to read:

§ 658. SUPPORT

* * *

(d) The court or magistrate may order ~~a parent who is in default of a child support order, an obligor or a parent who will become the obligor pending an anticipated child support order~~ to participate in employment, educational, or ~~training-related~~ training-related activities if the court finds that participation in such activities would assist in providing support for a child, or in addressing the causes of the default. The court may also order the parent to participate in substance abuse or other counseling if the court finds that such counseling may assist the parent to achieve stable employment. Activities ordered under this section shall ~~not be inconsistent~~ consistent with, and may be more rigorous than, any requirements of a state or federal program in which the parent is

participating. For the purpose of this subsection, “employment, educational, or ~~training-related~~ training-related activities” shall mean:

- (1) unsubsidized employment;
- (2) subsidized private sector employment;
- (3) subsidized public sector employment;
- (4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
- (5) on-the-job training;
- (6) job search and job readiness assistance;
- (7) community service programs;
- (8) vocational educational training (not to exceed 12 months with respect to any individual);
- (9) job skills training directly related to employment;
- (10) education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
- (11) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate;
- (12) the provision of child care services to an individual who is participating in a community service program; and
- (13) an employment services program, which may provide referrals for employment, training, counseling, or other services. Any report provided from such a program shall be presumed to be admissible without the appearance of a witness from the program in accordance with the provisions in 4 V.S.A. § 466(f).

* * *

Sec. 5. 15 V.S.A. § 660 is amended to read:

§ 660. MODIFICATION

(a)(1) On motion of either parent ~~or, the office of child support,~~ any other person to whom support has previously been granted, or any person previously charged with support, and upon a showing of a real, substantial and

unanticipated change of circumstances, the court may annul, vary, or modify a child support order, whether or not the order is based upon a stipulation or agreement. If the child support order has not been modified by the court for at least three years, the court may waive the requirement of a showing of a real, substantial, and unanticipated change of circumstances.

(2) The office of child support may independently file a motion to modify child support or change payee if providing services under Title IV-D of the Social Security Act, if a party is or will be incarcerated for more than 90 days, if the family has reunited or is living together, if the child is no longer living with the payee, or if a party receives means-tested benefits.

(b) A child support order, including an order in effect prior to adoption of the support guideline, which varies more than ten percent from the amounts required to be paid under the support guideline, shall be considered a real, substantial, and unanticipated change of circumstances.

~~(c) Receipt of workers' compensation, unemployment compensation or disability benefits~~ The following shall be considered a real, substantial, and unanticipated change of circumstances:

(1) Receipt of workers' compensation, disability benefits, or means-tested public assistance benefits.

(2) Unemployment compensation, unless the period of unemployment was considered when the child support order was established.

(3) Incarceration for more than 90 days, unless incarceration is for failure to pay child support.

(d) A motion to modify a support order under subsection (b) ~~or (c)~~ of this section shall be accompanied by an affidavit setting forth calculations demonstrating entitlement to modification and shall be served on other parties and filed with the court. Upon proof of service, and if the calculations demonstrate cause for modification, the ~~clerk of the court~~ magistrate shall enter an order modifying the support award in accordance with the calculations provided, unless within 15 days of service of, or receipt of, the request for modification, either party requests a hearing. The court shall conduct a hearing within 20 days of the request. No order shall be modified without a hearing if one is requested.

(e) An order may be modified only as to future support installments and installments which accrued subsequent to the date of notice of the motion to the other party or parties. The date the motion for modification is filed shall be deemed to be the date of notice to the opposing party or parties.

(f) Upon motion of the court or upon motion of the office of child support, the court may deem arrears judicially unenforceable in cases where there is no longer a duty of support, provided the court finds all of the following:

(1) The obligor is presently unable to pay through no fault of his or her own.

(2) The obligor currently has no known income or has only nominal assets.

(3) There is no reasonable prospect that the obligor will be able to pay in the foreseeable future.

(g) Upon motion of an obligee or the office of child support, the court may set aside a judgment that arrears are judicially unenforceable based on newly discovered evidence or a showing of a real, substantial, and unanticipated change in circumstances, provided the court finds any of the following:

(1) The obligor is presently able to pay.

(2) The obligor has income or has only nominal assets.

(3) There is a reasonable prospect that the obligor will be able to pay in the foreseeable future.

Sec. 6. 15 V.S.A. § 662 is amended to read:

§ 662. INCOME STATEMENTS

(a) A party to a proceeding under this subchapter shall file an affidavit of income and assets which shall be in a form prescribed by the court administrator. A party shall provide the affidavit of income and assets to the court and the opposing party on or before the date of the case management conference scheduled or, if no conference is scheduled, at least five business days before the date of the first scheduled hearing before the magistrate. Upon request of either party, or the court, the other party shall furnish information documenting the affidavit. The court may require a party who fails to comply with this section to pay an economic penalty to the other party.

(b) If a party fails to provide information as required under subsection (a) of this section, the court shall use the available evidence to estimate the noncomplying parent's income. Failure to provide the information required under subsection (a) of this section ~~shall~~ may create a presumption that the noncomplying parent's gross income is ~~the greater of:~~

~~(1) 150 percent of the most recently available annual average covered wage for all employment as calculated by the department of labor; or~~

~~(2) the gross income indicated by the evidence.~~

(c)(1) Upon a motion filed by either party or the office of child support, the court may relieve a party from a final judgment or child support order upon a showing that the income used in a default child support order was inaccurate by at least 10 percent. A showing that the court used incorrect financial information shall be considered a mistake for the purposes of Rule 60 of the Vermont Rules of Civil Procedure.

(2) The motion in subdivision (1) of this subsection shall be filed within one year of the date the contested order was issued.

Sec. 7. 15 V.S.A. § 668 is amended to read:

§ 668. MODIFICATION OF ORDER

(a) On motion of either parent or any other person to whom custody or parental rights and responsibilities have previously been granted, and upon a showing of real, substantial and unanticipated change of circumstances, the court may annul, vary or modify an order made under this subchapter if it is in the best interests of the child, whether or not the order is based upon a stipulation or agreement.

(b) Whenever a judgment for physical responsibility is modified, the court shall order a child support modification hearing to be set and notice to be given to the parties. Unless good cause is shown to the contrary, the court shall simultaneously issue a temporary order pending the modification hearing, if adjustments to those portions of any existing child support order or wage withholding order that pertain to any child affected by the modification are necessary to assure that support and wages are paid in amounts proportional to the modified allocation of responsibility between the parties.

Sec. 8. 28 V.S.A. § 2a(a) is amended to read:

(a) State policy. It is the policy of this state that principles of restorative justice be included in shaping how the criminal justice system responds to persons charged with or convicted of criminal offenses, and how the state responds to persons who are in contempt of child support orders. The policy goal is a community response to a person's wrongdoing at its earliest onset, and a type and intensity of sanction tailored to each instance of wrongdoing. Policy objectives are to:

(1) Resolve conflicts and disputes by means of a nonadversarial community process.

(2) Repair damage caused by criminal acts to communities in which they occur, and to address wrongs inflicted on individual victims.

(3) Reduce the risk of an offender committing a more serious crime in the future, that would require a more intensive and more costly sanction, such as incarceration.

Sec. 9. 28 V.S.A. § 3 is amended to read:

§ 3. GENERAL DEFINITIONS

Whenever used in this title:

* * *

(8) "Offender" means any person convicted of a crime or offense under the laws of this state, and, for purposes of work crew, a person found in civil contempt under 15 V.S.A. § 603.

* * *

Sec. 10. 28 V.S.A. § 352 is amended to read:

§ 352. SUPERVISED COMMUNITY SENTENCE

(a) At the request of the court, the commissioner of corrections shall prepare a preliminary assessment to determine whether an offender should be considered for a supervised community sentence.

(b) Upon adjudication of guilt, ~~or~~ a finding of violation of probation, or a finding of civil contempt, and only after the filing of a recommendation for supervised community sentence by the commissioner of corrections, the court may impose a sentence of imprisonment and order that all or part of the term of imprisonment be served in the community subject to the provisions of this chapter. Such a sentence shall not limit the court's authority to place a person on probation and to establish conditions of probation.

* * *

Sec. 11. 28 V.S.A. § 910 is amended to read:

§ 910. RESTORATIVE JUSTICE PROGRAM ~~FOR PROBATIONERS~~

This chapter establishes a program of restorative justice for use with offenders required to participate in such a program as a condition of a sentence of probation or as ordered for civil contempt of a child support order under 15 V.S.A. § 603. The program shall be carried out by community reparative boards under the supervision of the commissioner, as provided by this chapter.

Sec. 12. 28 V.S.A. § 910a is amended to read:

§ 910a. REPARATIVE BOARDS; FUNCTIONS

* * *

(d) Each board shall conduct its meetings in a manner that promotes safe interactions among ~~a probationer~~ an offender, victim or victims, and community members, and shall:

(1) In collaboration with the department, municipalities, the courts, and other entities of the criminal justice system, implement the restorative justice program of seeking to obtain ~~probationer~~ offender accountability, repair harm and compensate a victim or victims and the community, increase a ~~probationer's~~ an offender's awareness of the effect of his or her behavior on a victim or victims and the community, and identify ways to help ~~a probationer~~ an offender comply with the law.

(2) Educate the public about, and promote community support for, the restorative justice program.

(e) Each board shall have access to the central file of any ~~probationer~~ offender required to participate with that board in the restorative justice program.

* * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2012

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment offered by the committee on Judiciary agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 222

Rep. Fisher of Lincoln, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to cost-sharing for employer-sponsored insurance assistance plans

Recommended that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1974(c)(3) is amended to read:

(3) The premium assistance program under this subsection shall provide a subsidy of premiums or cost-sharing amounts based on the household income of the eligible individual, with greater amounts of financial assistance provided

to eligible individuals with lower household income and lesser amounts of assistance provided to eligible individuals with higher household income. Until an approved employer-sponsored plan is required to meet the standard in subdivision (4)(B)(ii) of this subsection, the subsidy shall include premium assistance and assistance to cover cost-sharing amounts for chronic care health services covered by the Vermont health access plan that are related to evidence-based guidelines for ongoing prevention and clinical management of the chronic condition specified in the ~~blueprint~~ Blueprint for health ~~Health~~ in 18 V.S.A. § 702. The subsidy shall also include assistance to cover cost-sharing amounts for supplemental prescription drug coverage equivalent to the benefits offered by the Vermont health access plan. Notwithstanding any other provision of law, when an individual is enrolled in Catamount Health solely under the high deductible standard outlined in 8 V.S.A. § 4080f(a)(9), the individual shall not be eligible for premium assistance for the 12-month period following the date of enrollment in Catamount Health.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Rep. Heath of Westford, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Health Care.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Health Care and Appropriations agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 236

Rep. Till of Jericho, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to health care practitioner signature authority

Reported in favor of its passage in concurrence with proposal of amendment as follows:

In Sec. 1, 26 V.S.A. § 1616, following the words “nurse practitioner”, by inserting the words “or a nurse midwife”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment offered by the committee on Health Care agreed to and third reading ordered.

Bill Read Second Time; Consideration Interrupted by Recess**S. 245**

Rep. Christie of Hartford, for the committee on Education, to which had been referred Senate bill, entitled

An act relating to requiring cardiovascular care instruction in public and independent schools

Reported that the House propose to the Senate that the bill be amended as follows:

First: By striking out Sec. 2 in its entirety and by renumbering "Sec. 3" to be "Sec. 2"

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new section to be Sec. 3 to read:

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Education?

Recess

At twelve o'clock and thirty-five minutes in the afternoon, the Speaker declared a recess until two o'clock and thirty minutes in the afternoon.

At two o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Proposal of Amendment Agreed to
and Third Reading Ordered****S. 245**

Consideration resumed on Senate bill, entitled

An act relating to requiring cardiovascular care instruction in public and independent schools;

Thereupon, the recurring question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Education? was agreed to and third reading ordered.

Senate Proposal of Amendment Concurred in**H. 752**

The Senate proposed to the House to amend House bill, entitled

An act relating to permitting stormwater discharges in impaired watersheds

In Sec. 2, 27 V.S.A. § 613, by striking out “January 15, 2016” where it appears in subdivision (b)(2) and inserting in lieu thereof June 30, 2016

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in**H. 765**

The Senate proposed to the House to amend House bill, entitled

An act relating to the mental health needs of the corrections population

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

**Sec. 1. INDIVIDUALS WITH A SERIOUS FUNCTIONAL IMPAIRMENT
INCARCERATED IN A CORRECTIONAL FACILITY**

(a) For the purpose of identifying and assessing the needs of individuals with a serious functional impairment as defined in 28 V.S.A. § 906(1) who are incarcerated in a correctional facility, the secretary of human services shall establish on or before July 1, 2012 a work group, including representatives appointed by the secretary of human services from the departments of corrections, of mental health, and of disabilities, aging, and independent living and including stakeholders. The work group shall:

(1) determine whether individuals with serious functional impairments are receiving appropriate programs and services while incarcerated in a correctional facility;

(2) consult with the members of the criminal justice community on ways to prevent initial incarceration and on ways to limit the length of incarceration for an individual with a serious functional impairment, as appropriate;

(3) work toward the successful reintegration into the community of an individual with serious functional impairment who has been incarcerated in a correctional facility;

(4) work toward reducing the recidivism rate among individuals with a serious functional impairment; and

(5) make long-term, systemic policy recommendations to the secretary of human services to create or improve mechanisms, programs, and services that benefit individuals with a serious functional impairment incarcerated in a correctional facility.

(b) On or before January 15, 2013, the secretary of human services shall issue a report to the general assembly recommending how to better address the needs of individuals with a serious functional impairment who are incarcerated in a correctional facility, based on the findings of the work group in the course of its duties as described in subsection (a) of this section. Prior to finalizing the report, the secretary shall obtain public input regarding the report and shall release a draft report to the public for public comment on or before December 15, 2012. At minimum, the report shall address the following:

(1) the prevalence of serious functional impairment among those members of the corrections population incarcerated in a correctional facility at the time the report is issued;

(2) the rate of recidivism among individuals with a serious functional impairment;

(3) the prevalence of psychotropic medication utilization by individuals in the mental health caseloads, including an analysis of the number of individuals with a serious functional impairment who possess a prescription for a psychotropic medication and whether that prescription was prescribed before or after the individual was incarcerated.

(4) the number of individuals incarcerated in a correctional facility with a serious functional impairment who are in need of mental health services that are not currently available to them; and

(5) opportunities to combine the department of mental health's expertise with that of the department of corrections to improve the mental health services for individuals with a serious functional impairment who are incarcerated in a correctional facility.

Sec. 2. INCARCERATED INDIVIDUALS AND MENTAL HEALTH

As a complement to the assessment conducted pursuant to Sec. 1 of this act, the commissioner of mental health shall ensure that information regarding incarcerated individuals with a mental illness or disorder as defined in 28 V.S.A. § 906(3) is collected and recorded separately, in addition to the other requirements of this act. The information collected shall include recidivism rates among this population. On or before January 15, 2013, the commissioner shall report this information and make recommendations to the house committee on corrections and institutions, the house committee on human

services, the senate committee on health and welfare, and the senate committee on judiciary.

Sec. 3. TRAINING

On or before October 15, 2012, the departments of mental health, of disabilities, aging, and independent living, and of corrections, with input and participation from peer and advocacy organizations, shall review the department of corrections' training program for correctional officers as it relates to the Americans with Disabilities Act and to working with and identifying individuals with a serious functional impairment or a mental illness or disorder. The review shall determine if the training is gender-responsive and trauma-informed. No later than January 15, 2013, the commissioners of mental health and of corrections shall submit a report to the general assembly identifying the strengths, weaknesses, and opportunities for improvement in this training.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Which proposal of amendment was considered and concurred in.

Action on Bill Postponed

H. 459

House bill, entitled

An act relating to approval of amendments to the charter of the town of Brattleboro

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Martin of Wolcott**, action on the bill was postponed until the next legislative day.

Senate Proposal of Amendment Concurred in with a Further Amendment Thereto

H. 403

The Senate proposed to the House to amend House bill, entitled

An act relating to foreclosure of mortgages

By striking Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 and Secs. 4, 5, and 6 to read as follows:

Sec. 3. 12 V.S.A. § 506 is amended to read:

§ 506. JUDGMENTS

Actions on judgments and actions for the renewal or revival of judgments shall be brought by filing a new and independent action on the judgment and recording a copy of the complaint in the land records where the property lies within eight years after the rendition of the judgment, and not after.

Sec. 4. 12 V.S.A. § 2903(b) is amended to read:

(b) A judgment which is renewed or revived pursuant to section 506 of this title shall constitute a lien on real property for eight years from the issuance of the renewed or revived judgment if recorded in accordance with this chapter and shall relate back to the date on which the original lien was first recorded if a copy of the complaint to renew the judgment was recorded in the land records where the property lies within eight years after the rendition of the judgment.

Sec. 5. 27 V.S.A. § 612(b) is amended to read:

(b) A purchaser shall have the right to terminate a binding contract for the sale of real estate if, prior to closing, the purchaser determines and gives written notice to the seller that land development has occurred on the real estate without a required municipal land use permit or in violation of an existing municipal land use permit. Following the receipt of written notice, the seller shall have 30 days, unless the parties agree to a shorter or longer period, either to obtain the required municipal land use permits or to comply with existing municipal land use permits. If the seller does not obtain the required municipal land use permits or comply with existing municipal land use permits, the purchaser may terminate the contract if, as an owner or occupant of the real estate, the purchaser may be subject to an enforcement action under ~~24 V.S.A. § 4496~~ 24 V.S.A. § 4454.

Sec. 6. EFFECTIVE DATES; APPLICABILITY

(a) Secs. 1 and 2 of this act shall take effect on July 1, 2012 and shall apply to any mortgage foreclosure proceeding instituted after that date.

(b) This section and Secs. 3, 4, and 5 of this act shall take effect on passage.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Koch of Barre Town**, moved that the House concur with the Senate proposal of amendment with the following amendments thereto:

First: By striking Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. [DELETED]

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

Sec. 4. 12 V.S.A. § 2903(b) is amended to read:

(b) A judgment which is renewed or revived pursuant to section 506 of this title shall constitute a lien on real property for eight years from the issuance of the renewed or revived judgment if recorded in accordance with this chapter. The renewed or revived judgment and shall relate back to the date on which the original lien was first recorded if a copy of the complaint to renew the judgment was recorded in the land records where the property lies within eight years after the rendition of the judgment, and the renewed or revived judgment is subsequently recorded in accordance with this chapter.

Which was agreed to.

Adjournment

At three o'clock and fifteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Wednesday, April 18, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Michell Hay of the Essex United Methodist Church, Essex, VT.

Joint Resolution Adopted in Concurrence

J.R.S. 57

By Senators Carris and Mullin,

J.R.S. 57. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, April 19, 2012, or, Friday, April 20, 2012, it be to meet again no later than Tuesday, April 24, 2012.

Was taken up read and adopted in concurrence.

**Senate Proposal of Amendment Concurred in
with a Further Proposal of Amendment Thereto**

H. 413

The Senate proposed to the House to amend House bill, entitled

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult

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

Sec. 1. 13 V.S.A. § 1384 is added to read:

§ 1384. CIVIL ACTION; RECOVERY BY ATTORNEY GENERAL

(a) The attorney general may bring an action for damages on behalf of the state against a person or caregiver who, with reckless disregard or with knowledge, violates section 1376 (abuse of a vulnerable adult), 1377 (abuse by unlawful restraint or confinement), 1378 (neglect of a vulnerable adult), 1380 (financial exploitation), or 1381 (exploitation of services) of this title, in addition to any other remedies provided by law, not to exceed the following:

- (1) \$5,000.00 if no bodily injury results;
- (2) \$10,000.00 if bodily injury results;
- (3) \$20,000.00 if serious bodily injury results; and
- (4) \$50,000.00 if death results.

(b) In a civil action brought under this section, the defendant shall have a right to a jury trial.

(c) A good faith report of abuse, neglect, exploitation, or suspicion thereof pursuant to 33 V.S.A. § 6902 or federal law shall not alone be sufficient evidence that a person acted in reckless disregard for purposes of subsection (a) of this section.

Sec. 2. 13 V.S.A. § 1385 is added to read:

§ 1385. CIVIL INVESTIGATION

(a)(1) If the attorney general has reason to believe a person or caregiver has violated section 1376, 1377, 1378, 1380, or 1381 of this title or an administrative rule adopted pursuant to those sections, he or she may:

(A) examine or cause to be examined any books, records, papers, memoranda, and physical objects of whatever nature bearing upon each alleged violation.

(B) demand written responses under oath to questions bearing upon each alleged violation.

(C) require the attendance of such person or of any other person having knowledge on the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the state.

(D) take testimony and require proof material for his or her information and administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(2) The attorney general shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses at least ten days prior to the date of such examination, personally or by certified mail, upon such person at his or her principal place of business or, if such place is not known, to his or her last known address. Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this state for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same. This subsection shall not apply to any criminal investigation or prosecution.

(b) A person upon whom a notice is served pursuant to this section shall comply with the terms thereof unless otherwise provided by the court order. Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject of any such notice or mistakes or conceals any information shall be subject to a civil fine of not more than \$5,000.00.

(c) If a person fails to comply with a notice served pursuant to subsection (b) of this section or if satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general may file a petition with the superior court for enforcement of this section. Whenever any petition is filed under this section, the court shall have jurisdiction to hear and determine the matter presented and to enter such orders as may be required to effectuate the provisions of this section. Failure to comply with an order issued pursuant to this section shall be punished as contempt.

Sec. 3. 33 V.S.A. § 6911(a)(1) is amended to read:

(1) The investigative report shall be disclosed only to: the commissioner or person designated to receive such records; persons assigned by the commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the office of professional regulation when deemed appropriate by the commissioner; a law enforcement agency, the state's attorney, or the office of the attorney general, when the department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

Sec. 4. REPORT

On or before December 1, 2012, the attorney general and the department of disabilities, aging, and independent living shall jointly provide a report on the status of investigations concerning the abuse, neglect, and exploitation of a vulnerable adult and statistics regarding investigation backlog to the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Grad of Moretown** moved that the House concur in the Senate proposal of amendmnt with a further amendment thereto as follows:

By Striking Sec. 4 and renumbering the remaining Sec. to be numerically correct.

Which was agreed to.

Senate Proposal of Amendment Concurred in

H. 459

The Senate proposed to the House to amend House bill, entitled

An act relating to approval of amendments to the charter of the town of Brattleboro

First: In Sec. 2, in § 2.4 (representative town meeting), in subdivision (a)(2), by striking out the fifth sentence which reads, "The town clerk and town

treasurer shall be nonvoting ex officio members if appointed by the town manager.”

Second: In Sec. 2, in § 3.2 (initiative), in subdivision (1)(B), at the end of the final sentence before the period, by striking out “, unless it is deemed illegal or unconstitutional by the body, in consultation with the town attorney”

Which proposal of amendment was considered and concurred in.

Action on Bill Postponed

H. 503

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until Friday, April 20, 2012.

Third Reading; Bill Passed

H. 533

House bill, entitled

An act relating to insurance business transfers

Was taken up, read the third time and passed.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 106

Senate bill, entitled

An act relating to miscellaneous changes to municipal government law

Was taken up and pending third reading of the bill, **Rep. Lippert of Hinesburg** moved the House propose to the Senate to amend the bill as follows:

In Sec. 24, (auditor website; audit findings), in subdivision (a)(1), in the second sentence, after “The summary shall include”, by striking out the remainder of that sentence and inserting in lieu thereof “the names of all persons or entities convicted of those offenses; and”

Which was agreed to.

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

**Third Reading; Bill Passed in Concurrence
With Proposals of Amendment**

S. 203

Senate bill, entitled

An act relating to child support enforcement

Was taken up, read the third time and passed in concurrence with proposals of amendment.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 222

Senate bill, entitled

An act relating to cost-sharing for employer-sponsored insurance assistance plans

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 236

Senate bill, entitled

An act relating to health care practitioner signature authority

Was taken up, and pending third reading of the bill, **Rep. Donahue of Northfield** moved the House propose to the Senate to amend the bill as follows:

In Sec. 1, 26 V.S.A. § 1616, following the word “chapter”, by striking out the word “and” and inserting in lieu thereof a comma, and following the word “midwife”, by inserting “, and not required to practice with a collaborative provider agreement” before the semicolon

Thereupon, **Rep. Donahue of Northfield** asked and was granted leave of the House to withdraw her amendment, and the bill was read the third time and passed in concurrence with proposal of amendment.

**Proposal of Amendment Agreed to; Bill Read Third Time and
Passed in Concurrence with Proposal of Amendment**

S. 245

Senate bill, entitled

An act relating to requiring cardiovascular care instruction in public and independent schools

Was taken up and pending third reading of the bill, **Rep. Donahue of Northfield** moved the House propose to the Senate to amend the bill as follows:

In Sec. 1, 16 V.S.A. § 131, by striking out subdivision (3)(B) in its entirety and inserting in lieu thereof a new subdivision (3)(B) to read:

(B) information regarding and practice of cardiopulmonary resuscitation by people who are not health care professionals and the use of automated external defibrillators;

Which was agreed to.

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

Proposal of Amendment Agreed to; Third Reading Ordered

S. 136

Rep. Marcotte of Coventry, for the committee on Commerce and Economic Development, to which had been referred Senate bill, entitled

An act relating to vocational rehabilitation

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: By striking Sec. 2 and inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. STUDY

(a) The department of labor in consultation with the department of disabilities, aging, and independent living and other interested parties including vocational rehabilitation counselors shall study the following:

(1) what performance standards should apply to vocational rehabilitation counselors;

(2) whether the department of disabilities, aging, and independent living should be allowed to provide workers' compensation vocational rehabilitation services and charge the fees for those services to insurance companies and whether providing services to state employees would represent a conflict of interest;

(3) whether injured workers receiving vocational rehabilitation services are receiving those services in a timely manner; and

(4) whether the current vocational rehabilitation screening process is effective and whether entities other than the department of disabilities, aging, and independent living should be permitted to provide screening to avoid conflicts of interest.

(b) The department of labor shall report its findings as well as any recommendations by January 15, 2013, to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs.

Second: By adding a Sec. 3 to read:

Sec. 3. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(2) “Child” includes a stepchild, adopted child, posthumous child, grandchild, and an acknowledged illegitimate a child for whom parentage has been established pursuant to 15 V.S.A. chapter 5, but does not include a married child unless the child is a dependent.

* * *

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 217

Rep. Kupersmith of South Burlington, for the committee on Commerce and Economic Development, to which had been referred Senate bill, entitled

An act relating to closely held benefit corporations

Reported in favor of its passage in concurrence with proposal of amendment as follows:

In Sec. 1, in 11A V.S.A. § 21.10(e)(1), immediately preceding “is not required” by adding “except in the case of a corporation with annual gross revenue of one million dollars or more in each of the two years preceding his or her appointment,”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 237

Rep. Ralston of Middlebury, for the committee on Commerce and Economic Development, to which had been referred Senate bill, entitled

An act relating to the genuine progress indicator

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. PURPOSE, DEFINITION, AND INTENT

(a) Purpose. The purpose of the genuine progress indicator (“GPI”) is to measure the state of Vermont’s economic, environmental, and societal well-being as a supplement to the measurement derived from the gross state product and other existing statistical measurements.

(b) Definition. The GPI is an estimate of the net contributions of economic activity to the well-being and long-term prosperity of our state’s citizens, calculated through adjustments to gross state product that account for positive and negative economic, environmental, and social attributes of economic development.

(c) Intent. It is the intent of the general assembly that once established and tested, the GPI will assist state government in decision-making by providing an additional basis for budgetary decisions, including outcomes-based budgeting; by measuring progress in the application of policy and programs; and by serving as a tool to identify public policy priorities, including other measures such as human rights.

Sec. 2. GENUINE PROGRESS INDICATOR

(a) Establishment; maintenance.

(1) The secretary of administration shall negotiate and enter into a memorandum of understanding with the Gund Institute for Ecological Economics of the University of Vermont (the “Gund Institute”) to work in collaboration to establish and test a genuine progress indicator (GPI). The memorandum shall provide the process by which the GPI is established and,

once tested, how and by whom the GPI shall be maintained and updated. The memorandum shall further provide that in the establishment of the GPI, the secretary of administration, in collaboration with the Gund Institute, shall create a Vermont data committee made up of individuals with relevant expertise to inventory existing datasets and to make recommendations that may be useful to all data users in Vermont's state government, nonprofit organizations, and businesses.

(2) The GPI shall use standard genuine progress indicator methodology and additional factors to enhance the indicator, which shall be adjusted periodically as relevant and necessary.

(b) Accessibility. Once established, the GPI and its underlying datasets that are submitted by the Gund Institute to the secretary of administration shall be posted on the state of Vermont website.

(c) Updating data. The secretary of administration shall cooperate in providing data as necessary in order to update and maintain the GPI.

Sec. 3. PROGRESS REPORTS

By January 15, 2013 and once every other year thereafter, the secretary of administration shall report to the house committees on government operations and on commerce and economic development and the senate committees on government operations and on economic development, housing, and general affairs a progress report regarding the maintenance, including the cost of maintenance, and usefulness of the GPI.

Sec. 4. DATASETS

Any datasets submitted to the secretary of administration pursuant to this act shall be considered a public record under chapter 5 of Title 1.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, and read the second time.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Commerce and Economic Development? **Rep. Leriche of Hardwick** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Commerce and Economic Development? was decided in the affirmative. Yeas, 97. Nays, 41.

Those who voted in the affirmative are:

Acinapura of Brandon	French of Randolph	Moran of Wardsboro
Ancel of Calais	Gilbert of Fairfax	Mrowicki of Putney
Andrews of Rutland City	Grad of Moretown	Nuovo of Middlebury
Aswad of Burlington	Greshin of Warren	Olsen of Jamaica
Bartholomew of Hartland	Haas of Rochester	Partridge of Windham
Bissonnette of Winooski	Head of South Burlington	Pearson of Burlington *
Bohi of Hartford	Heath of Westford	Peltz of Woodbury
Botzow of Pownal	Hooper of Montpelier	Poirier of Barre City
Browning of Arlington	Howard of Cambridge	Potter of Clarendon
Burke of Brattleboro	Jerman of Essex	Pugh of South Burlington
Buxton of Tunbridge	Jewett of Ripton	Ralston of Middlebury
Campion of Bennington	Johnson of South Hero	Ram of Burlington
Cheney of Norwich	Keenan of St. Albans City	Russell of Rutland City
Christie of Hartford	Kitzmiller of Montpelier	Shand of Weathersfield
Clarkson of Woodstock	Klein of East Montpelier	Sharpe of Bristol
Condon of Colchester	Krebs of South Hero	South of St. Johnsbury
Conquest of Newbury	Krowinski of Burlington	Spengler of Colchester *
Copeland-Hanzas of Bradford	Kupersmith of South Burlington	Stevens of Waterbury
Corcoran of Bennington	Lanpher of Vergennes	Stuart of Brattleboro
Courcelle of Rutland City	Lenes of Shelburne	Sweaney of Windsor
Dakin of Chester	Leriche of Hardwick	Taylor of Barre City
Davis of Washington	Lippert of Hinesburg	Till of Jericho
Deen of Westminster	Macaig of Williston	Toll of Danville
Degree of St. Albans City	Malcolm of Pawlet	Trieber of Rockingham
Donovan of Burlington	Manwaring of Wilmington	Turner of Milton
Edwards of Brattleboro	Marcotte of Coventry	Waite-Simpson of Essex
Ellis of Waterbury	Marek of Newfane	Webb of Shelburne
Emmons of Springfield	Martin of Wolcott	Wilson of Manchester
Evans of Essex	Masland of Thetford	Wizowaty of Burlington
Fisher of Lincoln	McCullough of Williston *	Woodward of Johnson
Frank of Underhill	Miller of Shaftsbury	Yantachka of Charlotte
French of Shrewsbury	Mook of Bennington	Young of Glover
		Zagar of Barnard

Those who voted in the negative are:

Atkins of Winooski	Donaghy of Poultney	Lawrence of Lyndon
Batchelor of Derby	Donahue of Northfield *	Lewis of Berlin
Bouchard of Colchester	Fagan of Rutland City	Lewis of Derby
Branagan of Georgia	Hebert of Vernon	McAllister of Highgate
Brennan of Colchester	Helm of Fair Haven	McFaun of Barre Town
Burditt of West Rutland	Higley of Lowell	Morrissey of Bennington
Canfield of Fair Haven	Hubert of Milton	Myers of Essex
Clark of Vergennes	Johnson of Canaan	Pearce of Richford
Consejo of Sheldon	Kilmartin of Newport City *	Perley of Enosburgh
Crawford of Burke	Koch of Barre Town	Reis of St. Johnsbury
Dickinson of St. Albans Town	Komline of Dorset	Savage of Swanton
	Larocque of Barnet	Scheuermann of Stowe *

Shaw of Pittsford
Smith of New Haven

Strong of Albany
Townsend of Randolph

Winters of Williamstown
Wright of Burlington

Those members absent with leave of the House and not voting are:

Devereux of Mount Holly
Eckhardt of Chittenden
Howrigan of Fairfield
Lorber of Burlington

Martin of Springfield
McNeil of Rutland Town
Munger of South Burlington
O'Brien of Richmond

O'Sullivan of Burlington
Peaslee of Guildhall
Stevens of Shoreham

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

To endorse a bill that attempts to put numbers on abstract values without a legislative endorsement of the product prior to implementation is an irresponsible delegation of our responsibilities.”

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

Voting ‘no’ on this piece of legislation puts me in a state of euphoria and ecstasy, elevated well above and beyond my normal state of ‘happiness’.”

Rep. McCullough of Williston explained his vote as follows:

“Mr. Speaker:

I voted for S.237 because I am, and I believe, in happiness. I also believe a published Vermont GPI will literally attract the young, bright and happy to Vermont. We need them.”

Rep. Pearson of Burlington explained his vote as follows:

“Mr. Speaker:

I am proud to support this bill. If the truth will set you free, Mr. Speaker, then surely more thorough information helps unlock the door.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

I vote ‘no’ on this bill for one simple reason. I am afraid this Genuine Progress Indicator (otherwise known as the Happiness Index) will be used as a tool to avoid addressing the real economic challenges facing Vermont families and businesses.”

Rep. Spengler of Colchester explained her vote as follows:

“Mr. Speaker:

Of all the bills we are considering this session I am most excited about S.237 for it holds the greatest promise. Taking into account the environmental and societal cost/benefit of our economic decisions has never been more important.”

Thereupon, third reading was ordered.

Favorable Report; Third Reading Ordered

S. 115

Rep. Donaghy of Poultney, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to ineffective assistance claims against assigned counsel

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Recess

At three o'clock and twenty minutes in the afternoon, the Speaker declared a recess until three o'clock and forty-five minutes in the afternoon.

At four o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

Rep. Leriche of Hardwick in Chair.

Reported Without Recommendation; Third Reading Ordered

H. 777

Rep. Lippert of Hinesburg, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to licensed midwives and certified nurse midwives

Reported the bill without recommendation. The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 76. Nays, 46.

Those who voted in the affirmative are:

Ancel of Calais	Grad of Moretown	Partridge of Windham
Atkins of Winooski	Haas of Rochester	Pearson of Burlington
Bartholomew of Hartland	Head of South Burlington	Peltz of Woodbury
Bissonnette of Winooski	Heath of Westford	Poirier of Barre City
Bohi of Hartford	Hooper of Montpelier	Potter of Clarendon
Botzow of Pownal	Jerman of Essex	Pugh of South Burlington
Burke of Brattleboro	Jewett of Ripton	Ralston of Middlebury
Buxton of Tunbridge	Kitzmiller of Montpelier	Ram of Burlington
Campion of Bennington	Klein of East Montpelier	Russell of Rutland City
Cheney of Norwich	Krebs of South Hero	Shand of Weathersfield
Christie of Hartford	Krowinski of Burlington	Sharpe of Bristol
Conquest of Newbury	Kupersmith of South Burlington	Spengler of Colchester
Consejo of Sheldon	Lanpher of Vergennes	Stevens of Waterbury
Courcelle of Rutland City	Lenes of Shelburne	Stuart of Brattleboro
Dakin of Chester	Lippert of Hinesburg	Sweaney of Windsor
Davis of Washington	Macaig of Williston	Taylor of Barre City
Deen of Westminster	Manwaring of Wilmington	Trieber of Rockingham
Donovan of Burlington	Marek of Newfane	Waite-Simpson of Essex
Edwards of Brattleboro	Masland of Thetford	Webb of Shelburne
Ellis of Waterbury	McCullough of Williston	Wilson of Manchester
Emmons of Springfield	Miller of Shaftsbury	Wizowaty of Burlington
Fisher of Lincoln	Mook of Bennington	Woodward of Johnson
Frank of Underhill	Moran of Wardsboro	Yantachka of Charlotte
French of Shrewsbury	Mrowicki of Putney	Young of Glover
French of Randolph	Nuovo of Middlebury	Zagar of Barnard
Gilbert of Fairfax		

Those who voted in the negative are:

Acinapura of Brandon	Donaghy of Poultney	Marcotte of Coventry
Andrews of Rutland City	Donahue of Northfield	McAllister of Highgate
Batchelor of Derby	Greshin of Warren	McFaun of Barre Town
Bouchard of Colchester	Higley of Lowell	Olsen of Jamaica
Branagan of Georgia	Howard of Cambridge	Pearce of Richford
Browning of Arlington	Hubert of Milton	Perley of Enosburgh
Canfield of Fair Haven	Johnson of Canaan	Reis of St. Johnsbury
Clark of Vergennes	Keenan of St. Albans City	Savage of Swanton
Clarkson of Woodstock	Kilmartin of Newport City	Scheuermann of Stowe
Condon of Colchester	Koch of Barre Town	Smith of New Haven
Corcoran of Bennington	Komline of Dorset	South of St. Johnsbury
Crawford of Burke	Larocque of Barnet	Till of Jericho
Degree of St. Albans City	Lawrence of Lyndon	Toll of Danville
Devereux of Mount Holly	Lewis of Berlin	Turner of Milton
Dickinson of St. Albans	Lewis of Derby	Wright of Burlington
Town	Malcolm of Pawlet	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Howrigan of Fairfield	O'Sullivan of Burlington
Brennan of Colchester	Johnson of South Hero	Peaslee of Guildhall
Burditt of West Rutland	Lorber of Burlington	Shaw of Pittsford
Copeland-Hanzas of Bradford	Martin of Springfield	Smith of Morristown
Eckhardt of Chittenden	Martin of Wolcott	Stevens of Shoreham
Evans of Essex	McNeil of Rutland Town	Strong of Albany
Fagan of Rutland City	Morrissey of Bennington	Townsend of Randolph
Hebert of Vernon	Munger of South Burlington	Winters of Williamstown
Helm of Fair Haven	Myers of Essex	
	O'Brien of Richmond	

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

This bill protects the right of Vermont women to make their own decisions about where and with whom they choose to share one of the most important and intimate experiences in their lives. At a time when their rights seem to be under assault in other areas I was happy to be able to support them in this one.”

Adjournment

At five o'clock and forty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.

Thursday, April 19, 2012

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Peter Plagge of the Waterbury Congregational Church, Waterbury, VT.

Message from the Senate No. 45

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 768. An act relating to ignition interlock restricted driver's licenses and civil suspensions.

And has passed the same in concurrence.

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

H. 758. An act relating to divorce and dissolution proceedings.

H. 759. An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment.

H. 770. An act relating to the state's transportation program.

H. 785. An act relating to capital construction and state bonding budget adjustment.

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

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

S. 238. An act relating to a study on access to driving privileges in Vermont.

And has concurred therein.

Message from the Senate No. 46

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 99. An act relating to supporting mobile home ownership, strengthening mobile home parks and preserving affordable housing.

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

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

S. 181. An act relating to school resource officers.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

Bill Referred to Committee on Appropriations**H. 776**

House bill, entitled

An act relating to encouraging flexible pathways leading to secondary school completion and career and college readiness

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Referred to Committee**J.R.H. 36**

Joint resolution relating to the implementation of 30 V.S.A. § 20(b)(15)

Offered by: Representative Olsen of Jamaica

Whereas, in May 2011, the commissioner of public service requested that the general assembly enact legislation authorizing the state of Vermont to seek the recovery of costs incurred in any state or federal judicial proceeding involving any company or facility certified under Title 30, and

Whereas, at the time of its request, the department of public service stated that if legislation authorizing the state to recover these legal costs were to be enacted, it would be used in pending litigation, and

Whereas, in response to the request of the department, the general assembly included in Act 47 (the Vermont energy act of 2011) a new statutory subdivision codified as 30 V.S.A. § 20(b)(15) providing that in “proceedings before any state or federal court concerning a company holding or a facility subject to a certificate issued” by the public service board under Title 30, the costs under subdivision (15) “shall be charged to the involved company,” and

Whereas, regardless of the merits for the provision for future litigation, it is the historic policy of the general assembly not to interfere with active judicial proceedings, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests that the executive branch refrain from invoking 30 V.S.A. § 20(b)(15) in any judicial proceeding that was pending at the time of this statutory subdivision’s enactment, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Governor Peter Shumlin, Attorney General William Sorrell, Public Service Board Chair James Volz, and Commissioner of Public Service Elizabeth Miller.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Government Operations.

House Resolution Referred to Committee

H.R. 18

House resolution, entitled

House resolution in support of the restoration of collective bargaining rights in Wisconsin

Offered by: Representatives Davis of Washington and Moran of Wardsboro

Whereas, in 1959, Wisconsin became the first state in the nation to establish collective bargaining for its public employees, and

Whereas, in 2011, this proud half-century-long tradition of collective bargaining rights was largely reversed when, after raucous legislative debates and citizen encampments in the Wisconsin state house, the Wisconsin legislature enacted Act 10 of 2011, severely curtailing the collective bargaining rights and union certification duration of public employees in the state, and

Whereas, Act 10 severely restricted the scope of compensation issues that may be the subject of collective bargaining, and

Whereas, until 2011, the certification of a collective bargaining unit had remained valid until such time as the employees affirmatively voted to withdraw the certification, and

Whereas, Act 10 ended this indefinite certification policy by requiring that the members of a collective bargaining unit annually vote to recertify the unit, and

Whereas, the state of Wisconsin is a democracy, and the restoration of full collective bargaining rights and the elimination of annual union recertification votes for its public employees' collective bargaining units should be the first order of business, and

Whereas, thousands of Wisconsinites, and believers in the collective bargaining system for public employees from other states, are working toward the restoration of a labor-management system that should never have been so seriously weakened, and

Whereas, a number of Wisconsin legislators have introduced Senate Bill 233 which would repeal the collective bargaining restrictions enacted in Act 10, as well as the requirement for annual recertification elections of designated collective bargaining units, and

Whereas, even if Senate Bill 233 were to pass the Wisconsin legislature, it is likely that Governor Scott Walker, who originally proposed the dilution of collective bargaining rights embodied in Act 10 and is a strong proponent of the act, would veto the bill, and

Whereas, in a gender context, employment rights have also been under fire in Wisconsin as Governor Scott Walker has signed legislation repealing the state's 2009 Equal Pay Enforcement Act which had provided for individuals who were denied equal pay due to their gender to seek redress in the Wisconsin court system, and

Whereas, thousands of Wisconsin voters have signed petitions calling for the recall of Governor Scott Walker as a protest against his opposition to collective bargaining and his leading the political drive to enact Act 10, and

Whereas, the recall election, which will take place on June 5, also includes the offices of Lt. Governor and four members of the Wisconsin Senate which is currently divided with a 16–16 Democratic-Republican partisan split, and

Whereas, depending on the outcome of these recall elections, the Wisconsin political climate may become more favorable for legislative consideration of Senate Bill 233, and

Whereas, the future of collective bargaining rights for public employees in Wisconsin has implications for public employees throughout the United States, now therefore be it

Resolved by the House of Representatives:

That this legislative body urges the state of Wisconsin to enact Senate Bill 233, or similar legislation, restoring the full collective bargaining rights of Wisconsin public employees, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to Council 24 of the American Federation of State, County and Municipal Employees in Madison, Wisconsin, to Wisconsin Governor Scott Walker, and to the Vermont State Employees' Association.

Which was read and referred to the committee on General, Housing and Military Affairs.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

S. 180

Rep. Turner of Milton moved that the committee on Rules be relieved of Senate bill, entitled

An act relating to the universal service fund and establishment of a high-cost program

And that the bill be committed to the committee on Commerce and Economic Development, which was agreed to.

Committee of Conference Appointed

S. 116

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to probate proceedings

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Lippert of Hinesburg

Rep. Koch of Barre Town

Rep. Marek of Newfane

Committee of Conference Appointed

S. 199

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Fisher of Lincoln

Rep. Spengler of Colchester

Rep. Till of Jericho

**Senate Proposal of Amendment Concurred in with
A Further Proposal of Amendment Thereto**

H. 761

The Senate proposed to the House to amend House bill, entitled

An act relating to executive branch fees, including motor vehicle and fish and wildlife fees

First: By adding an internal caption and Sec. 2a to read:

* * * Motor vehicle racing * * *

Sec. 2a. 26 V.S.A. § 4806 is amended to read:

§ 4806. FEES; DISPOSITIONS

(a) Notwithstanding the fee provisions of 3 V.S.A. § 125, applicants and persons regulated under this chapter shall pay the following fees:

- (1) Annual event permit applications:
 - (A) Auto racing \$ 800.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 500.00;
- (2) Unlimited event permit applications:
 - (A) Auto racing \$ 1,250.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 1,250.00;
- (3) Single event permit applications:
 - (A) Auto racing \$ 500.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 500.00;
- (4) Annual event permit biennial ~~renewal~~ renewals:
 - (A) Auto racing \$ 500.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 500.00;
- (5) Unlimited event permit biennial ~~renewal~~ renewals:
 - (A) Auto racing \$ 2,500.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 2,500.00.

(b) A municipality where a race is to be held may charge an additional fee, not to exceed the municipality's costs associated with the race.

(c) A single event permit shall authorize any number of events within a 10-day period in the same location and on the same racing track. An annual-event permit shall authorize any number of events within two 10-day periods in consecutive years and may be renewed every two years.

(d) Notwithstanding the provisions of subsection (a) of this section, a person in good standing incorporated or authorized to transact business as a nonprofit corporation under Title 11B shall pay a fee of \$100.00 for an annual event permit application under subdivisions (a)(1)(A) and (B) of this section; an annual event permit biennial renewal under subdivisions (a)(4)(A) and (B); or for any five events within a one-year period.

Second: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. REPEAL

18 V.S.A. § 4463 (regarding salvage food facility license) is repealed.

Third: By adding a new Sec. 35a to read:

Sec. 35a. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

* * *

(4) Big game licenses (all require a hunting license)

* * *

(G) ~~second~~ additional bear tag \$5.00

* * *

(l) If the board determines that it is in the interest of bear management, it may authorize the department to issue ~~a second bear tag for the taking of bear~~ bear tags in addition to ~~that~~ those allowed by a hunting license issued under this chapter.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Branagan of Georgia** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

In Sec. 2a, by striking out Sec. 2a and inserting in lieu thereof a new Sec. 2a to read:

Sec. 2a. 26 V.S.A. § 4806 is amended to read:

§ 4806. FEES; DISPOSITIONS

(a) Notwithstanding the fee provisions of 3 V.S.A. § 125, applicants and persons regulated under this chapter shall pay the following fees:

(1) Annual event permit applications:

(A) Auto racing \$ 800.00;

(B) Go-cart, snowmobile, or motorcycle racing \$ 500.00;

(2) Unlimited event permit applications:

(A) Auto racing \$ 1,250.00;

(B) Go-cart, snowmobile, or motorcycle racing \$ 1,250.00;

(3) Single event permit applications:

(A) Auto racing \$ 500.00;

(B) Go-cart, snowmobile, or motorcycle racing	\$ 500.00;
(4) Annual event permit biennial ~~renewal~~ <u>renewals</u> :	
(A) Auto racing	\$ 500.00;
(B) Go-cart, snowmobile, or motorcycle racing	\$ 500.00;
(5) Unlimited event permit biennial ~~renewal~~ <u>renewals</u> :	
(A) Auto racing	\$ 2,500.00;
(B) Go-cart, snowmobile, or motorcycle racing	\$ 2,500.00.

(b) A municipality where a race is to be held may charge an additional fee, not to exceed the municipality's costs associated with the race.

(c) A single event permit shall authorize any number of events within a 10-day period in the same location and on the same racing track. An annual-event permit shall authorize any number of events within two 10-day periods in consecutive years and may be renewed every two years.

(d) Notwithstanding the provisions of subdivision (a)(3)(B) of this section, a person in good standing incorporated or authorized to transact business as a nonprofit corporation under Title 11B shall pay a fee of \$100.00 for a single-event snowmobile racing permit.

Which was agreed to.

Joint Resolution Adopted in Concurrence

J.R.S. 11

Joint resolution, entitled

Joint resolution urging the United States Congress to propose amendments to the United States Constitution for the states' consideration relating to contributions and expenditures intended to affect elections and relating to the rights of corporations

Was taken up and pending the question, Shall the House adopt the Joint resolution in concurrence? **Rep. Olsen of Jamaica** moved to amend the resolution as follows:

First: By adding two new Whereas clauses immediately preceding the first Resolve clause to read:

Whereas, corporations that are not incorporated in the United States are prohibited from making donations to political campaigns for federal, state, or local public office, and

Whereas, Vermonters are concerned that corporations that are not incorporated in the United States are unduly influencing public policy in Vermont through their U.S. incorporated subsidiaries, and

Second: By adding a new third Resolve clause to read:

Resolved: That the U.S. Congress amend federal election law to prohibit U.S. incorporated subsidiaries of corporations that are not incorporated in the United States from contributing to any federal, state, or local political campaign for public office or to any fund established to finance an inaugural or similar post-election celebration of a candidate's victory, and be it further

Which was disagreed to on a Division vote. Yeas, 42. Nays, 67.

Pending the question, Shall the House adopt the Joint resolution in concurrence? **Rep. Degree of St. Albans City** moved to amend the resolution as follows:

By striking all after the title and inserting in lieu thereof the following:

Whereas, the U.S. Bill of Rights provides certain inalienable rights to natural persons, and

Whereas, corporations and unions are not mentioned in the U.S. Constitution, and

Whereas, corporations and unions are legal entities that governments create, and the rights they enjoy under the U.S. Constitution should be more narrowly defined than the rights that are afforded to natural persons, and

Whereas, the decision to regulate corporate and union financial campaign contributions is one that historically Congress and the states have been constitutionally allowed to address, and

Whereas, in 1907, Congress enacted the Tillman Act prohibiting corporate financial contributions to federal election campaigns for public office, and

Whereas, in 2010, the U.S. Supreme Court in *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (U.S. 2010), ruled that Congress and the states lacked the constitutional right to ban independent corporate expenditures to political campaigns for public office, and

Whereas, the U.S. Supreme Court in the *Citizens* decision relied on its previously issued opinion in the 1976 case *Buckley v. Valeo*, 424 U.S. 1 (U.S. 1976), in which it equated the spending of money for electing candidates to public office as speech, and

Whereas, the *Citizens* decision has allowed for the creation of super political action committees in election campaigns for public office that allow for unregulated campaign expenditures in unprecedented amounts, and

Whereas, as a result of the *Citizens* decision, Congress and the state legislatures were denied any legal authority to regulate independent corporate or union political expenditures, and

Whereas, a restoration of the guidelines established in the Bipartisan Campaign Reform Act of 2002 is imperative so that Congress and the state legislatures may exercise their historic authority to make their own decisions about whether to regulate corporate or union political expenditures, and

Whereas, this policy change will require that the U.S. Constitution be amended to authorize congressional or state regulation of individual, union, or corporate financial participation in political campaigns, and

Whereas, on Vermont town meeting day, March 6, 2012, 64 Vermont towns and cities passed resolutions urging the Vermont congressional delegation and the U.S. Congress to propose legislative or congressional action to address the issues raised by *Citizens* including that money is not speech and corporations are not persons under the U.S. Constitution, and

Whereas, these resolutions, passed by towns on town meeting day, also urged the general assembly to pass a similar resolution directed at the Vermont congressional delegation, and

Whereas, U.S. Senator Tom Udall of New Mexico with 22 cosponsors has introduced Senate Joint Resolution 29, “proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections,” that would give the Congress and the states the authority to regulate the raising and spending of moneys with respect to elections, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its disagreement with the holdings of the U.S. Supreme Court in *Buckley* and in *Citizens* that money is speech and urges Congress to adopt Senate Joint Resolution 29, *and be it further*

Resolved: That the General Assembly urges Congress to consider the request of many Vermont cities and towns to propose a U.S. constitutional amendment for the state’s consideration that provides that money is not speech and corporations and unions are not persons under the U.S. Constitution and that also affirms the constitutional rights of natural persons, *and be it further*

Resolved: That the General Assembly does not support an amendment to the U.S. Constitution that would abridge the constitutional rights of any person or organization including freedom of religion or freedom of the press, *and be it further*

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

and that upon adoption, the title of this resolution be amended to read: “Joint resolution urging the United States Congress to propose amendments to the United States Constitution for the states’ consideration relating to contributions and expenditures intended to affect elections and relating to the rights of corporations and unions.”

Pending the question, Shall the House propose to the Senate to amend the resolution as recommended by Rep. Degree of St. Albans City? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the resolution as recommended by Rep. Degree of St. Albans City? was decided in the negative. Yeas, 1. Nays, 132.

Those who voted in the affirmative are:

Howard of Cambridge

Those who voted in the negative are:

Acinapura of Brandon	Christie of Hartford	Fisher of Lincoln
Ancel of Calais	Clark of Vergennes	Frank of Underhill
Andrews of Rutland City	Clarkson of Woodstock	French of Shrewsbury
Aswad of Burlington	Conquest of Newbury	French of Randolph
Atkins of Winooski	Consejo of Sheldon	Grad of Moretown
Bartholomew of Hartland	Copeland-Hanzas of	Greshin of Warren
Batchelor of Derby	Bradford	Haas of Rochester
Bissonnette of Winooski	Corcoran of Bennington	Head of South Burlington
Bohi of Hartford	Courcelle of Rutland City	Heath of Westford
Botzow of Pownal	Crawford of Burke	Hebert of Vernon
Bouchard of Colchester	Dakin of Chester	Higley of Lowell
Branagan of Georgia	Davis of Washington	Hooper of Montpelier
Brennan of Colchester	Deen of Westminster	Jewett of Ripton
Browning of Arlington	Degree of St. Albans City	Johnson of South Hero
Burditt of West Rutland	Devereux of Mount Holly	Johnson of Canaan
Burke of Brattleboro	Donaghy of Poultney	Keenan of St. Albans City
Buxton of Tunbridge	Donahue of Northfield	Kilmartin of Newport City
Campion of Bennington	Edwards of Brattleboro	Kitzmiller of Montpelier
Canfield of Fair Haven	Ellis of Waterbury	Klein of East Montpelier
Cheney of Norwich	Emmons of Springfield	Koch of Barre Town

Komline of Dorset	Miller of Shaftsbury	Shaw of Pittsford
Krebs of South Hero	Mook of Bennington	Smith of New Haven
Krowinski of Burlington	Moran of Wardsboro	South of St. Johnsbury
Kupersmith of South Burlington	Morrissey of Bennington	Spengler of Colchester
Lanpher of Vergennes	Mrowicki of Putney	Stevens of Waterbury
Larocque of Barnet	Myers of Essex	Stevens of Shoreham
Lawrence of Lyndon	Nuovo of Middlebury	Strong of Albany
Lenes of Shelburne	Olsen of Jamaica	Stuart of Brattleboro
Leriche of Hardwick	O'Sullivan of Burlington	Sweaney of Windsor
Lewis of Berlin	Partridge of Windham	Taylor of Barre City
Lewis of Derby	Pearce of Richford	Till of Jericho
Lippert of Hinesburg	Pearson of Burlington	Toll of Danville
Lorber of Burlington	Peltz of Woodbury	Townsend of Randolph
Macaig of Williston	Perley of Enosburgh	Trieber of Rockingham
Malcolm of Pawlet	Poirier of Barre City	Turner of Milton
Manwaring of Wilmington	Potter of Clarendon	Waite-Simpson of Essex
Marcotte of Coventry	Pugh of South Burlington	Webb of Shelburne
Marek of Newfane	Ralston of Middlebury	Wilson of Manchester
Martin of Springfield	Ram of Burlington	Wizowaty of Burlington
Martin of Wolcott	Reis of St. Johnsbury	Woodward of Johnson
Masland of Thetford	Russell of Rutland City	Wright of Burlington
McAllister of Highgate	Savage of Swanton	Yantachka of Charlotte
McCullough of Williston	Scheuermann of Stowe	Young of Glover
McFaun of Barre Town	Shand of Weathersfield	Zagar of Barnard
	Sharpe of Bristol	

Those members absent with leave of the House and not voting are:

Condon of Colchester	Fagan of Rutland City	McNeil of Rutland Town
Dickinson of St. Albans Town	Gilbert of Fairfax	Munger of South Burlington
Donovan of Burlington	Helm of Fair Haven	O'Brien of Richmond
Eckhardt of Chittenden	Howrigan of Fairfield	Peaslee of Guildhall
Evans of Essex	Hubert of Milton	Winters of Williamstown
	Jerman of Essex	

Thereupon, **Rep. Olsen of Jamaica** moved to commit the resolution to the committee on General, Housing and Military Affairs, which was disagreed to.

Pending the question, Shall the House adopt the resolution? **Rep. Koch of Barre Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House adopt the resolution? was decided in the affirmative. Yeas, 92. Nays, 40.

Those who voted in the affirmative are:

Ancel of Calais	Bissonnette of Winooski	Burke of Brattleboro
Andrews of Rutland City	Bohi of Hartford	Buxton of Tunbridge
Bartholomew of Hartland	Botzow of Pownall	Campion of Bennington

Cheney of Norwich	Johnson of South Hero	Peltz of Woodbury
Christie of Hartford	Keenan of St. Albans City	Poirier of Barre City
Clarkson of Woodstock	Kitzmiller of Montpelier	Potter of Clarendon
Conquest of Newbury	Komline of Dorset	Pugh of South Burlington
Consejo of Sheldon	Krowinski of Burlington	Ralston of Middlebury
Copeland-Hanzas of Bradford	Kupersmith of South Burlington	Ram of Burlington
Corcoran of Bennington	Lanpher of Vergennes	Russell of Rutland City *
Courcelle of Rutland City	Lenes of Shelburne	Shand of Weathersfield
Dakin of Chester	Leriche of Hardwick	Sharpe of Bristol *
Davis of Washington *	Lippert of Hinesburg	South of St. Johnsbury
Deen of Westminster	Lorber of Burlington	Spengler of Colchester
Devereux of Mount Holly	Macaig of Williston	Stevens of Waterbury
Donovan of Burlington	Malcolm of Pawlet	Stuart of Brattleboro
Edwards of Brattleboro	Manwaring of Wilmington	Sweaney of Windsor
Ellis of Waterbury	Marek of Newfane	Taylor of Barre City
Emmons of Springfield	Martin of Springfield	Till of Jericho
Fisher of Lincoln	Martin of Wolcott	Toll of Danville
Frank of Underhill	Masland of Thetford	Trieber of Rockingham
French of Shrewsbury	McCullough of Williston	Waite-Simpson of Essex
French of Randolph	Miller of Shaftsbury	Webb of Shelburne
Grad of Moretown	Mook of Bennington	Wilson of Manchester
Greshin of Warren	Moran of Wardsboro	Wizowaty of Burlington
Haas of Rochester	Mrowicki of Putney *	Woodward of Johnson
Head of South Burlington	Nuovo of Middlebury	Wright of Burlington
Heath of Westford	Olsen of Jamaica	Yantachka of Charlotte
Hooper of Montpelier	O'Sullivan of Burlington	Young of Glover
Howard of Cambridge	Partridge of Windham	Zagar of Barnard
Jewett of Ripton	Pearson of Burlington	

Those who voted in the negative are:

Acinapura of Brandon	Hebert of Vernon	Morrissey of Bennington
Atkins of Winooski	Higley of Lowell	Myers of Essex
Batchelor of Derby	Hubert of Milton	Pearce of Richford
Bouchard of Colchester	Johnson of Canaan	Perley of Enosburgh
Branagan of Georgia	Kilmartin of Newport City *	Savage of Swanton
Brennan of Colchester	Koch of Barre Town	Scheuermann of Stowe
Browning of Arlington	Krebs of South Hero	Shaw of Pittsford
Burditt of West Rutland	Larocque of Barnet	Smith of New Haven
Canfield of Fair Haven	Lawrence of Lyndon	Stevens of Shoreham
Clark of Vergennes	Lewis of Berlin	Strong of Albany
Crawford of Burke	Lewis of Derby	Townsend of Randolph
Degree of St. Albans City	Marcotte of Coventry	Turner of Milton
Donaghy of Poultney	McAllister of Highgate	
Donahue of Northfield	McFaun of Barre Town	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Fagan of Rutland City	McNeil of Rutland Town
Condon of Colchester	Gilbert of Fairfax	Munger of South Burlington
Dickinson of St. Albans	Helm of Fair Haven	O'Brien of Richmond
Town	Howrigan of Fairfield	Peaslee of Guildhall
Eckhardt of Chittenden	Jerman of Essex	Reis of St. Johnsbury
Evans of Essex	Klein of East Montpelier	Winters of Williamstown

Rep. Davis of Washington explained her vote as follows:

“Mr. Speaker:

I support this resolution. When we can put a corporation in prison for life, then maybe they will achieve personhood. Until then, real live human beings should govern. The playing field has always been slanted to favor those who can influence power. Treating a corporation as a person slants it in a very disturbing direction.”

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

I vote ‘no.’ This assault on our guaranteed freedoms of association and speech is not a new fight. It is another tyrannical attempt to isolate and strangle the individual citizen into a lonely corner where he is deprived of the resources to promote and disseminate his speech and build associations with his/her fellow citizens to take ‘collective’ action against government and its policies. It puts government, not the people, as the arbiter of when, where and how they can exercise their freedoms.

It claims to promote the individual when, in fact, it destroys the individual. Its very wording is facially contradictory.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

Thank you, Mr. Speaker, for this healthy debate. I voted for my constituents who are asking for action in response to the floods of money polluting our political waters.”

Rep. Russell of Rutland City explained his vote as follows:

“Mr. Speaker:

As I proudly represent the voters of the City of Rutland, I vote ‘yes’ on this resolution, giving voice to the affirmative views of my citizens.”

Rep. Sharpe of Bristol explained his vote as follows:

“Mr. Speaker:

Today, Vermont joined the rising chorus of states and citizens objecting to the results of the Supreme Court decision to allow unlimited corporate money to influence our elections. Most Vermonters don’t believe that the founders of our constitution intended for business corporations, whose sole purpose is to raise money for their owners, to be able to participate, on behalf of those owners, in elections. This decision by the United States’ Supreme Court effectively gave the owners of those corporations two ways to influence policies in our state and our country. Voters in 64 towns all across the state of Vermont do not want their voice drowned out by the voice of corporate wealth and influence and we call upon the United States Congress to take steps to reverse the decision of the Supreme Court.”

Action on Bill Postponed

S. 115

Senate bill, entitled

An act relating to ineffective assistance claims against assigned counsel

Was taken up and pending third reading of the bill, on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until the next legislative day.

Report of Committee of Conference Adopted

S. 37

The Speaker placed before the House the following Committee of Conference 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 expungement of a nonviolent misdemeanor criminal history record

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

Sec. 1. 13 V.S.A. chapter 230 is added to read:

CHAPTER 230. EXPUNGEMENT AND SEALING OF CRIMINAL HISTORY RECORDS

§ 7601. DEFINITIONS

As used in this chapter:

(1) "Court" means the criminal division of the superior court.

(2) "Criminal history record" means all information documenting an individual's contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(3) "Predicate offense" means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of intoxicating liquor or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title.

(4) "Qualifying crime" means:

(A) a misdemeanor offense which is not a listed crime as defined in subdivision 5301(7) of this title, an offense involving sexual exploitation of children in violation of chapter 64 of this title, an offense involving violation of a protection order in violation of section 1030 of this title, a prohibited act as defined in section 2632 of this title, or a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief; or

(C) a violation of section 2501 of this title related to grand larceny.

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,POSTCONVICTION; PROCEDURE

(a)(1) A person who was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence may file a petition with the court requesting expungement or sealing of the criminal history record related to the conviction. The state's attorney or attorney general shall be the respondent in the matter.

(2) The court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the court, and the court shall issue the petitioner a certificate and provide notice of the order in accordance with this section.

(b)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 10 years previously.

(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.

(C) Any restitution ordered by the court has been paid in full.

(D) The court finds that expungement of the criminal history record serves the interest of justice.

(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and the court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(c)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least 20 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(C) The person has not been convicted of a misdemeanor during the past 15 years.

(D) Any restitution ordered by the court for any crime of which the person has been convicted has been paid in full.

(E) After considering the particular nature of any subsequent offense, the court finds that expungement of the criminal history record for the qualifying crime serves the interest of justice.

(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

§ 7603. EXPUNGEMENT AND SEALING OF RECORD, NO
CONVICTION; PROCEDURE

(a) A person who was cited or arrested for a qualifying crime or qualifying crimes arising out of the same incident or occurrence may file a petition with the court requesting expungement or sealing of the criminal history record related to the citation or arrest if one of the following conditions is met:

(1) No criminal charge is filed by the state and the statute of limitations has expired.

(2) The court does not make a determination of probable cause at the time of arraignment or dismisses the charge at the time of arraignment and the statute of limitations has expired.

(3) The charge is dismissed before trial:

(A) without prejudice and the statute of limitations has expired; or

(B) with prejudice.

(4) The defendant and the respondent stipulate that the court may grant the petition to expunge and seal the record.

(b) The state's attorney or attorney general shall be the respondent in the matter. The petitioner and the respondent shall be the only parties in the matter.

(c) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if it finds that expungement of the criminal history record serves the interest of justice.

(d) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if:

(1) The court finds that sealing the criminal history record better serves the interest of justice than expungement.

(2) The person committed the qualifying crime after reaching 19 years of age.

§ 7604. NEW CHARGE

If a person is charged with a criminal offense after he or she has filed a petition for expungement pursuant to this chapter, the court shall not act on the petition until disposition of the new charge.

§ 7605. DENIAL OF PETITION

If a petition for expungement is denied by the court pursuant to this chapter, no further petition shall be brought for at least five years.

§ 7606. EFFECT OF EXPUNGEMENT

(a) Upon entry of an expungement order, the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the expungement to the respondent, Vermont crime information center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

(b) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged.

(c) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

(d)(1) The court may keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to section 7602 or 7603 of this title. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case or by the court if the court finds that inspection of the documents is necessary to serve the interest of justice. The administrative judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) All other court documents in a case that are subject to an expungement order shall be destroyed.

(5) The court administrator shall establish policies for implementing this subsection.

(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that "NO RECORD EXISTS."

§ 7607. EFFECT OF SEALING

(a) Upon entry of an order to seal, the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the sealing to the respondent, Vermont crime information center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

(b) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been sealed.

(c) Notwithstanding a sealing order:

(1) An entity that possesses a sealed record may continue to use it for any litigation or claim arising out of the same incident or occurrence or involving the same defendant.

(2) An entity may use the criminal history record sealed in accordance with section 7603 of this title, regarding a person who was cited or arrested, for future criminal investigations or prosecutions without limitation.

(d) Upon receiving a sealing order, an entity shall:

(1) Seal the investigation or prosecution record;

(2) Enter a copy of the sealing order into the record;

(3) Flag the record as "SEALED" to prevent inadvertent disclosure of sealed information; and

(4) Upon receiving an inquiry from any person regarding a sealed record, respond that "NO RECORD EXISTS."

§ 7608. VICTIMS

(a) At the time a petition is filed pursuant to this chapter, the respondent shall give notice of the petition to any victim of the offense who is known to the respondent. The victim shall have the right to offer the respondent a statement prior to any stipulation or to offer the court a statement. The disposition of the petition shall not be unnecessarily delayed pending receipt of a victim's statement. The respondent's inability to locate a victim after a reasonable effort has been made shall not be a bar to granting a petition.

(b) As used in this section, "reasonable effort" means attempting to contact the victim by first class mail at the victim's last known address and by telephone at the victim's last known phone number.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

and that after passage the title of the bill be amended to read: "An act relating to expungement and sealing of criminal history records"

COMMITTEE ON THE PART OF
THE SENATE

COMMITTEE ON THE PART OF
THE HOUSE

SEN. ALICE W. NITKA

REP. THOMAS F. KOCH

SEN. RICHARD W. SEARS

REP. SUSAN L. WIZOWATY

SEN. DIANE B. SNELLING

REP. ELDRED M. FRENCH

Which was considered and adopted on the part of the House.

Bill Read Third Time and Passed

H. 777

House bill, entitled

An act relating to licensed midwives and certified nurse midwives

Was taken up and pending third reading of the bill, **Rep. Kilmartin of Newport City** moved to amend the bill as follows:

In Sec. 1a, Insurance Coverage for Midwifery, in subsections (a) and (b), by striking out “2014” each time it appears and inserting in lieu thereof “2013”

Which was disagreed to. Thereupon, the bill was read the third time and passed.

Third Reading; Bills Passed in Concurrence with Proposal of Amendment

Senate bills of the following titles were severally taken up, read the third time and passed in concurrence with proposal of amendment:

S. 136

House bill, entitled

An act relating to vocational rehabilitation;

S. 217

House bill, entitled

An act relating to closely held benefit corporations;

S. 237

House bill, entitled

An act relating to the genuine progress indicator;

Bill Read Second Time; Bill Amended and Third Reading Ordered

H. 794

Rep. Jewett of Ripton spoke for the committee on Government Operations.

House bill entitled

An act relating to the management of search and rescue operations

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Jewett of Ripton** moved to amend the bill as follows:

In Sec. 2 (search and rescue strategic plan development committee), in subsections (f) (report) and (g) (number of meetings; term of committee), by striking “September 1” and inserting in lieu thereof “December 15”

Which was agreed to and third reading of the bill was ordered.

Proposal of Amendment Agreed to; Third Reading Ordered**S. 223**

Rep. Dakin of Chester, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to health insurance coverage for early childhood development disorders, including autism spectrum disorders

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. 8 V.S.A. § 4088i is amended to read:

§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF ~~AUTISM SPECTRUM~~ EARLY CHILDHOOD DEVELOPMENTAL DISORDERS

(a)(1) A health insurance plan shall provide coverage for the evidence-based diagnosis and treatment of ~~autism spectrum disorders~~ early childhood developmental disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst, for children, beginning at 18 months of age birth and continuing until the child reaches age six or enters the first grade, whichever occurs first 21.

(2) Coverage provided pursuant to this section by Medicaid, the Vermont health access plan, or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

(3) Any benefits required by this section that exceed the essential health benefits specified under Section 1302(b) of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended, shall not be required in a health insurance plan offered in the individual, small group, and large group markets on and after January 1, 2014.

(b) A health insurance plan shall not limit in any way the number of visits an individual eligible for coverage under subsection (a) of this section may have with an autism services provider. The amount, frequency, and duration of treatment described in this section shall be based on medical necessity and may be subject to a prior authorization requirement under the health insurance plan.

(c) A health insurance plan shall not impose greater coinsurance, co-payment, deductible, or other cost-sharing requirements for coverage of the diagnosis or treatment of ~~autism-spectrum~~ early childhood developmental disorders than apply to the diagnosis and treatment of any other physical or mental health condition under the plan.

(d)(1) A health insurance plan shall provide coverage for applied behavior analysis when the services are provided or supervised by a licensed provider who is working within the scope of his or her license or who is a nationally board-certified behavior analyst.

(2) A health insurance plan shall provide coverage for services under this section delivered in the natural environment when the services are furnished by a provider working within the scope of his or her license or under the direct supervision of a licensed provider or, for applied behavior analysis, by or under the supervision of a nationally board-certified behavior analyst.

(e) Except for inpatient services, if an individual is receiving treatment for an early developmental delay, the health insurance plan may require treatment plan reviews based on the needs of the individual beneficiary, consistent with reviews for other diagnostic areas and with rules established by the department of financial regulation. A health insurance plan may review the treatment plan for children under the age of eight no more frequently than once every six months.

(f) As used in this section:

(1) “Applied behavior analysis” means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior. The term includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(2) ~~“Autism services provider” means any licensed or certified person providing treatment of autism spectrum disorders.~~

~~(3)~~ “Autism spectrum disorders” means one or more pervasive developmental disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, pervasive developmental disorder not otherwise specified, and Asperger’s disorder.

(3) “Behavioral health treatment” means evidence-based counseling and treatment programs, including applied behavior analysis, that are:

(A) necessary to develop skills and abilities for the maximum reduction of physical or mental disability and for restoration of an individual to his or her best functional level, or to ensure that an individual under the age of 21 achieves proper growth and development;

(B) provided or supervised by a nationally board-certified behavior analyst or by a licensed provider, so long as the services performed are within the provider's scope of practice and certifications.

(4) "Diagnosis of ~~autism spectrum disorder~~ early childhood developmental disorders" means medically necessary assessments, evaluations, ~~including neuropsychological evaluations; genetic testing; or other testing or tests~~ to determine whether an individual has ~~one or more~~ an early childhood developmental delay, including an autism spectrum ~~disorders~~ disorder.

(5) "~~Habilitative care~~" or "~~rehabilitative care~~" means professional counseling, guidance, services, and treatment programs, including applied behavior analysis and other behavioral health treatments, in which the covered individual makes clear, measurable progress, as determined by an autism services provider, toward attaining goals the provider has identified. "Early childhood developmental disorder" means a childhood mental or physical impairment or combination of mental and physical impairments that results in functional limitations in major life activities, accompanied by a diagnosis defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Disease (ICD). The term includes autism spectrum disorders, but does not include a learning disability.

(6) "Evidence-based" means the same as in 18 V.S.A. § 4621.

(7) "Health insurance plan" means Medicaid, the Vermont health access plan, and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this state by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include benefit plans providing coverage for specific diseases or other limited benefit coverage.

(7)(8) "Medically necessary" means ~~any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a physician licensed pursuant to chapter 23 of Title 26 or by a psychologist licensed pursuant to chapter 55 of Title 26 if such treatment is consistent with the most recent relevant report or recommendations of the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, or another~~

professional group of similar standing describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual's diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(9) "Natural environment" means a home or child care setting.

(10) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need for or effectiveness of a medication.

(11) "Psychiatric care" means direct or consultative services provided by a licensed physician certified in psychiatry by the American Board of Medical Specialties.

(12) "Psychological care" means direct or consultative services provided by a psychologist licensed pursuant to 26 V.S.A. chapter 55.

~~(8)~~(13) "Therapeutic care" means services provided by licensed or certified speech language pathologists, occupational therapists, or physical therapists, or social workers.

~~(9)~~(14) "Treatment of disorders for early developmental disorders" means the following evidence-based care and related equipment prescribed, provided, or ordered for an individual diagnosed with one or more autism spectrum disorders by a physician licensed pursuant to chapter 23 of Title 26 licensed health care provider or a licensed psychologist licensed pursuant to chapter 55 of Title 26 if such physician or psychologist who determines the care to be medically necessary, including:

(A) ~~habilitative or rehabilitative care~~ behavioral health treatment;

(B) pharmacy care;

(C) psychiatric care;

(D) psychological care; and

(E) therapeutic care.

~~(e)~~(g) Nothing in this section shall be construed to affect any obligation to provide services to an individual under an individualized family service plan, individualized education program, or individualized service plan. A health insurance plan shall not reimburse services provided under 16 V.S.A. § 2959a.

(h) It is the intent of the general assembly that the department of financial regulation facilitate and encourage health insurance plans to bundle co-payments accrued by beneficiaries receiving services under this section to the extent possible.

Sec. 2. REPORT

The agency of human services shall submit a report, in consultation with Autism Speaks and health insurers, to the senate committee on health and welfare and the house committee on health care on or before January 15, 2014 regarding the implementation of this act, including an assessment of whether eligible individuals are receiving evidence-based services, how such services may be improved, and the fiscal impact of these services.

Sec. 3. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2012 and shall apply to Medicaid, the Vermont health access plan, and any other public health care assistance program on or after July 1, 2012.

(b) The provisions of this act shall apply to all other health insurance plans on or after October 1, 2012, on such date as a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2013.

Rep. Johnson of South Hero, for the committee on Appropriations, recommended that the bill ought to pass in concurrence with proposal of amendment as recommended by the committee on Health Care.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committees on Health Care and Appropriations agreed to and third reading was ordered.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra MacLean, Secretary of Civil and Military Affairs, as follows:

Mr Speaker:

I am directed by the Governor to inform the House that on the eighteenth day of April, 2012, he approved and signed a bill originating in the House of the following title:

H. 634 An act relating to remedies for failure to pay municipal tickets

Adjournment

At five o'clock and fifteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Friday, April 20, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Message from the Senate No. 48

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 550. An act relating to the Vermont administrative procedure act.

H. 789. An act relating to reapportioning the final representative districts of the House of Representatives.

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

House Bill Introduced**H. 795**

Reps. Lanpher of Vergennes and Clark of Vergennes introduced a bill, entitled

An act relating to a traffic light in the town of Ferrisburgh

Which was read the first time and referred to the committee on Transportation.

Senate Bill Referred**S. 99**

Senate bill, entitled

An act relating to supporting mobile home ownership, strengthening mobile home parks and preserving affordable housing

Was read and referred to the committee on General, Housing and Military Affairs.

Rules Suspended; Senate Proposal of Amendment Not Concurred in; Committee of Conference Requested and Appointed; Rules Suspended and Bill Ordered Messaged to the Senate Forthwith

H. 789

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to reapportioning the final representative districts of the House of Representatives

Was taken up for immediate consideration.

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

First: In Sec. 1, by striking out districts BENNINGTON-3-1 and BENNINGTON-3-2 in their entirety and inserting in lieu thereof the following:

<u>BENNINGTON-3-1</u>	<u>Glastenbury and Shaftsbury</u>	<u>1</u>
<u>BENNINGTON-3-2</u>	<u>Arlington, Sandgate, Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the centerline of VT 153 to the intersection of East Street; then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road; then easterly along the southern side and southerly along the western side of the centerline of Kent Hollow Road to the boundary of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning</u>	<u>1</u>

Second: By striking out districts CHITTENDEN-4-1 and CHITTENDEN-4-2 in their entirety and inserting in lieu thereof the following:

<u>CHITTENDEN-4-1</u>	<u>Charlotte</u>	<u>1</u>

CHITTENDEN-4-2 Hinesburg1

Third: By striking out Sec. 3 (effective date) in its entirety and inserting in lieu thereof the following:

Sec. 3. 17 V.S.A. § 1881 is amended to read:

§ 1881. NUMBER TO BE ELECTED

Senatorial districts and the number of senators to be elected from each are as follows:

(1) Addison senatorial district, composed of the towns of Addison, ~~Brandon~~, Bridport, Bristol, Buel's Gore, Cornwall, Ferrisburgh, Goshen, Granville, Hancock, Huntington, Leicester, Lincoln, Middlebury, Monkton, New Haven, Orwell, Pantton, Ripton, Salisbury, Shoreham, Starksboro, Vergennes, Waltham, ~~Whiting and~~ Weybridge, and Whiting..... two;

(2) Bennington senatorial district, composed of the towns of Arlington, Bennington, Dorset, Glastenbury, Landgrove, Manchester, Peru, Pownal, Readsboro, Rupert, Sandgate, Searsburg, Shaftsbury, Somerset, Stamford, Sunderland, Wilmington, Winhall, and Woodford..... two;

(3) Caledonia senatorial district, composed of the towns of Barnet, Bradford, Burke, Danville, Fairlee, Groton, Hardwick, Kirby, Lyndon, Newark, Newbury, Orange, Peacham, Ryegate, St. Johnsbury, Sheffield, Stannard, Sutton, Topsham, Walden, Waterford, West Fairlee, and Wheelock..... two;

(4) Chittenden senatorial district, composed of the towns of Bolton, ~~Buel's Gore~~, Burlington, Charlotte, Essex, Hinesburg, ~~Huntington~~, Jericho, Milton, Richmond, St. George, Shelburne, South Burlington, Underhill, Westford, Williston, and Winooski..... six;

(5) Essex-Orleans senatorial district, composed of the towns of Albany, Averill, Avery's Gore, Barton, Bloomfield, Brighton, Brownington, Brunswick, Canaan, Charleston, Concord, Coventry, Craftsbury, Derby, East Haven, Ferdinand, Glover, Granby, Greensboro, Guildhall, Holland, Irasburg, Jay, Lemington, Lewis, Lowell, Lunenburg, Maidstone, Montgomery, Morgan, Newport City, Newport Town, Norton, Richford, Troy, Victory, Warner's Grant, ~~Warren's~~ Warren Gore, Westfield, Westmore, and Wolcott..... two;

(6) Franklin senatorial district, composed of the towns of ~~Alburg~~ Alburgh, Bakersfield, Berkshire, ~~Enosburg~~ Enosburgh, Fairfax, Fairfield, Fletcher, Franklin, Georgia, Highgate, St. Albans City, St. Albans Town, Sheldon, and Swanton..... two;

(7) Grand Isle senatorial district, composed of the towns of Colchester, Grand Isle, Isle La Motte, North Hero, and South Hero..... one;

(8) Lamoille senatorial district, composed of the towns of Belvidere, Cambridge, Eden, Elmore, Hyde Park, Johnson, Morristown, Stowe, and Waterville..... one;

(9) Orange senatorial district, composed of the towns of Braintree, Brookfield, Chelsea, Corinth, Randolph, Strafford, Thetford, Tunbridge, Vershire, Washington, and Williamstown..... one;

(10) Rutland senatorial district, composed of the towns of Benson, Brandon, Castleton, Chittenden, Clarendon, Danby, Fair Haven, Hubbardton, Ira, Killington, Mendon, Middletown Springs, ~~Mt. Holly~~, Mt. Tabor, Pawlet, Pittsfield, Pittsford, Poultney, Proctor, Rutland City, Rutland Town, Shrewsbury, Sudbury, Tinmouth, Wallingford, Wells, West Haven, and West Rutland..... three;

(11) Washington senatorial district, composed of the towns of Barre City, Barre Town, Berlin, Cabot, Calais, Duxbury, East Montpelier, Fayston, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Warren, Waterbury, Woodbury, and Worcester..... three;

(12) Windham senatorial district, composed of the towns of Athens, Brattleboro, Brookline, Dover, Dummerston, Grafton, Guilford, Halifax, Jamaica, Londonderry, Marlboro, Newfane, Putney, Rockingham, ~~Somerset~~, Stratton, Townshend, Vernon, Wardsboro, Westminster, Whitingham, and Windham..... two;

(13) Windsor senatorial district, composed of the towns of Andover, Baltimore, Barnard, Bethel, Bridgewater, Cavendish, Chester, Hartford, Hartland, Ludlow, Mt. Holly, Norwich, Plymouth, Pomfret, Reading, Rochester, Royalton, Sharon, Springfield, Stockbridge, Weathersfield, Weston, West Windsor, Windsor, and Woodstock..... three.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage and shall apply to representative and senatorial districts for the 2012 election cycle and thereafter.

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

An act relating to reapportioning the final representative districts of the House of Representatives and the senatorial districts of the Senate.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Sweaney of Windsor** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Sweaney of Windsor

Rep. Hubert of Milton

Rep. Jewett of Ripton

Thereupon, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Action on Bill Postponed

S. 115

Senate bill, entitled

An act relating to ineffective assistance claims against assigned counsel

Was taken up and pending third reading of the bill, on motion of **Rep. Donaghy of Poultney**, action on the bill was postponed until Wednesday, April 25, 2012.

Action on Bill Postponed

H. 503

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until Wednesday, April 25, 2012.

Bill Amended, Read Third Time and Passed

H. 794

House bill, entitled

An act relating to the management of search and rescue operations

Was taken up and pending third reading of the bill, **Rep. Howard of Cambridge** moved to amend the bill as follows:

In Sec. 2 (search and rescue strategic plan development committee), in subsection (b) (membership), in the first sentence, after "committee shall be

composed of” by striking out “12” and inserting in lieu thereof “13” and by adding a new subdivision to be subdivision (12) to read:

(12) One member of the National Ski Patrol appointed by the northern regional director of the National Ski Patrol’s eastern division.

Which was agreed to. Thereupon, the bill was read the third time and passed.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 223

Senate bill, entitled

An act relating to health insurance coverage for early childhood development disorders, including autism spectrum disorders

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 189

Rep. Reis of St. Johnsbury, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to expanding confidentiality of cases accepted by the court diversion project

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. 3 V.S.A. § 164(c)(1) is amended to read:

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

(1) The diversion project shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The state’s attorney shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. If the prosecuting attorney refers a case to diversion, the ~~information and affidavit~~ prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the

purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the state's attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the board declines to accept the case;
- (B) the person declines to participate in diversion; ~~or~~
- (C) the board accepts the case, but the person does not successfully complete diversion;
- (D) the state's attorney recalls the referral to diversion.

Sec. 2. 3 V.S.A. § 164a is added to read:

§ 164a. RESTITUTION

(a) A diversion program may refer an individual who has suffered a pecuniary loss as a direct result of a delinquent act or crime alleged to have been committed by a juvenile or adult accepted to its program to the restitution unit established by 13 V.S.A. § 5362 for the purpose of application for an advance payment pursuant to 13 V.S.A. § 5363(d)(1). The restitution unit may enter into a repayment contract with a juvenile or adult accepted into diversion and shall have the authority to bring a civil action to enforce the repayment contract in the event that the juvenile or adult defaults in performing the terms of the contract.

(b) The restitution unit and the diversion program shall develop a process for documenting victim loss, information sharing between the unit and diversion programs regarding the amount of restitution paid by the unit and diversion participants' contractual agreements to reimburse the unit, transmittal of payments from participants to the unit, and maintenance of the confidentiality of diversion information.

Sec. 3. 13 V.S.A. § 5362 is amended to read:

§ 5362. RESTITUTION UNIT

* * *

- (c) The restitution unit shall have the authority to:

* * *

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

Sec. 4. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIMS' RESTITUTION SPECIAL FUND

(a) There is hereby established in the state treasury a fund to be known as the crime victims' restitution special fund, to be administered by the restitution unit established by section 5362 of this title, and from which payments may be made to provide restitution to crime victims.

(b)(1) There shall be deposited into the fund:

(A) All monies collected by the restitution unit pursuant to section 7043 and subdivision 5362(c)(7) of this title.

(B) All fees imposed by the clerk of court and designated for deposit into the fund pursuant to section 7282 of this title.

(C) All monies donated to the restitution unit or the crime victims' restitution special fund.

(D) Such sums as may be appropriated to the fund by the general assembly.

* * *

(d)(1) The restitution unit is authorized to advance up to \$10,000.00 to a victim or to a deceased victim's heir or legal representative if the victim:

(A) was first ordered by the court to receive restitution on or after July 1, 2004;

(B) is a natural person or the natural person's legal representative; and

(C) has not been reimbursed under subdivision (2) of this subsection;

(D) is a natural person and has been referred to the restitution unit by a diversion program pursuant to 3 V.S.A. § 164a.

* * *

Sec. 5. 13 V.S.A. § 7043(n) is amended to read:

(n) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure of an offender aged 18 or older shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

Sec. 6. 13 V.S.A. § 5360 is added to read:

§ 5360. APPLICATION INFORMATION; CONFIDENTIALITY

(a) All documents reviewed by the victims' compensation board for purposes of approving an application for compensation shall be confidential and shall not be disclosed without the consent of the victim except as provided in this section and subsection 7043(c) of this title.

(b) For the purpose of requesting restitution, the amount of assistance provided by the victim's compensation board shall be established by copies of bills submitted to the victim's compensation board reflecting the amount paid by the board and stating that the services for which payment was made were for uninsured pecuniary losses.

(c) The following shall be confidential and shall be redacted by the victim's compensation board for any purpose including restitution: the victim's residential address, telephone number, and other contact information and the victim's social security number. In cases involving stalking, sexual offense, and domestic violence, the following information shall also be confidential and shall not be disclosed by the victim's compensation board for any purpose including restitution:

(1) the victim's employer's name, telephone number, address, or any other contact information; and

(2) the victim's medical or mental health provider's name, telephone number, address, or any other contact information.

Sec. 7. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

* * *

(b)(1) When ordered, restitution may include:

(A) return of property wrongfully taken from the victim;

(B) cash, credit card, or installment payments paid to the restitution unit; or

(C) payments in kind, if acceptable to the victim.

(2) In the event of a victim's crime-related death, the court may, at the request of the restitution unit, direct the unit to pay up to \$10,000.00 from the restitution fund to the victim's estate to cover future uninsured material losses caused by the death.

(c) Restitution hearing.

(1) Unless the amount of restitution is agreed to by the parties at the time of sentencing, the court shall set the matter for a restitution hearing.

(2) Prior to the date of the hearing, the state's attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the victim's compensation fund, the state's attorney shall provide the defendant with copies of bills submitted by the victim's compensation board pursuant to section 5360 of this title.

(3) Absent consent of the victim, medical and mental health records submitted to the victim's compensation board shall not be discoverable for the purposes of restitution except by order of the court. If the defendant files a motion to view copies of such records, the state's attorney shall file the records with the court under seal. The court shall conduct an in camera review of the records to determine what records, if any, are relevant to the parties' dispute with respect to restitution. If the court orders disclosure of the documents, the court shall issue a protective order defining the extent of dissemination of the documents to any person other than the defendant, the defendant's attorney, and the state's attorney. In no event shall the court permit disclosure of information in a document provided by the victim's compensation board that is confidential under subsection 5360(c) of this title.

~~(e)~~(d) In awarding restitution, the court shall make findings with respect to:

(1) The total amount of the material loss incurred by the victim. If sufficient documentation of the material loss is not available at the time of sentencing, the court shall set a hearing on the issue, and notice thereof shall be provided to the offender.

(2) The offender's current ability to pay restitution, based on all financial information available to the court, including information provided by the offender.

~~(d)~~(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the court shall establish a restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection (k) of this section. Notwithstanding 12 V.S.A. chapter 113 of Title 12 or any other provision of law, interest shall not accrue on a restitution judgment.

* * *

~~(e)~~(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to

preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.

* * *

~~(f)~~(g)(1) When restitution is requested but not ordered, the court shall set forth on the record its reasons for not ordering restitution.

* * *

~~(g)~~(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

~~(h)~~(i)(1) The court shall transmit a copy of a restitution order to the restitution unit, which shall make payment to the victim in accordance with section 5363 of this title.

* * *

~~(i)~~(j) The restitution unit may bring an action, including a small claims procedure, to enforce a restitution order against an offender in the civil division of the superior court of the unit where the offender resides or in the unit where the order was issued. In an action under this subsection, a restitution order issued by the criminal division of the superior court shall be enforceable in the civil division of the superior court or in a small claims procedure in the same manner as a civil judgment. Superior and small claims filing fees shall be waived for an action under this subsection, and for an action to renew a restitution judgment.

~~(j)~~(k) All restitution payments shall be made to the restitution unit, with the exception of restitution relating to a conviction for welfare fraud ordered under this section and recouped by the economic services division. The economic services division shall provide the restitution unit with a monthly report of all restitution collected through recoupment. This subsection shall have no effect upon the collection or recoupment of restitution ordered under Title 33.

~~(k)~~(l) The sentencing court may modify the payment schedule of a restitution order if, upon motion by the restitution unit or the offender, the court finds that modification is warranted by a substantial change in circumstances.

~~(l)~~(m) If the offender fails to pay restitution as ordered by the court, the restitution unit may file an action to enforce the restitution order in superior or

small claims court. After an enforcement action is filed, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the restitution unit, the victim, and the offender. If the court determines the offender has failed to comply with the restitution order, the court may take any action the court deems necessary to ensure the offender will make the required restitution payment, including:

* * *

~~(m)~~(n)(1) Any monies owed by the state to an offender who is under a restitution order, including lottery winnings and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

* * *

~~(n)~~(o) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

~~(o)~~(p) An obligation to pay restitution is part of a criminal sentence and is:

* * *

~~(p)~~(q) A transfer of property made with the intent to avoid a restitution obligation shall be deemed a fraudulent conveyance for purposes of 9 V.S.A. chapter 57 of Title 9, and the restitution unit shall be entitled to the remedies of creditors provided under 9 V.S.A. § 2291.

Sec. 8. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND
DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(40) ~~Records~~ records of genealogy provided in support of an application for tribal recognition pursuant to chapter 23 of this title;

(41) documents reviewed by the victim's compensation board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ 5360 and 7043(c).

Sec. 9. EFFECTIVE DATE

(a) Sections 1, 2, 3, 4, and 5 shall take effect on July 1, 2012.

(b) Sections 6, 7, 8, and this section shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment offered by the committee on Judiciary agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 792

Rep. Atkins of Winooski, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the city of Burlington

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Favorable Report; Third Reading Ordered

H. 793

Rep. Atkins of Winooski, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the Winooski incorporated school district

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 758

The Senate proposed to the House to amend House bill, entitled

An act relating to divorce and dissolution proceedings

First: In Sec. 4, 15 V.S.A. § 1206, in subdivision (d)(1), after the words “parties to a civil union” by adding the words certified in Vermont

Second: In Sec. 5, 18 V.S.A. § 5131, in subdivision (a)(4)(A), in the first sentence, by striking the word “solemnized” and inserting in lieu thereof the word certified

Third: By adding Sec. 5a to read as follows:

Sec. 5a. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(b)(2) Prior to the entry of any divorce or annulment proceeding in the superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$250.00 in lieu of all other fees not otherwise set forth in this section; ~~however, if.~~ If the divorce or annulment complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be \$75.00 if one or both of the parties are residents, and \$150.00 if neither party is a resident.

* * *

Which proposal of amendment was considered and concurred in.

Action on Bill Postponed

H. 759

House bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Martin of Springfield**, action on the bill was postponed until Wednesday, April 25, 2012.

Senate Proposal of Amendment Not Concurred in; Committee of Conference Requested and Appointed

H. 770

The Senate proposed to the House to amend House bill, entitled

An act relating to the state's transportation program

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

Sec. 1. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2013 transportation program appended

to the agency of transportation's proposed fiscal year 2013 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the agency of transportation.

(2) "Secretary" means the secretary of transportation.

(3) The table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" or "TIB" refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f.

* * * Program Development Funding Sources * * *

Sec. 2. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified as follows:

(1) Among eligible projects selected in the secretary's discretion, the secretary shall reduce project spending authority in the total amount of \$502,437.00 in transportation funds and \$25,000.00 in federal funds, and increase project spending authority in the total amount of \$484,745.00 in TIB funds.

* * * Program Development – Paving * * *

Sec. 3. PORTABLE HOT MIX PLANT

(a) A new project is added to the development and evaluation list of the program development – paving program within the fiscal year 2013 transportation program for the acquisition of a portable hot mix plant.

(b) As soon as practicable, the secretary shall study the feasibility and evaluate the costs and benefits of acquiring a portable hot mix plant, and necessary associated equipment, for use on paving projects throughout the state.

(c) If the secretary determines that use of a portable hot mix plant for paving projects is feasible and that the cost savings expected to result from its acquisition are projected to exceed the capital and operating costs of the plant, the secretary may spend transportation funds and, if eligible for federal

funding, federal funds, totaling up to \$4,000,000.00 from within the fiscal year 2013 program development appropriation (8100001100) for acquisition of the portable hot mix plant and necessary associated equipment, provided that such expenditure does not delay other programmed expenditures.

(d) Prior to any acquisition under the authority of subsection (c) of this section, the secretary shall notify the house and senate committees on transportation if the general assembly is in session, and if not in session, the joint transportation oversight committee, of his or her intention to take such action.

* * * Program Development – Roadway * * *

Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

(a) The following project is added to the development and evaluation list of the program development – roadway program within the fiscal year 2012 transportation program:

CIRC Alternatives – Phase 1 Alternative Projects.

(b) In light of the destruction caused by Tropical Storm Irene to the village of Waterbury, and the plans to reconstruct portions of the Waterbury Complex in the village, the agency of transportation shall review existing plans for the Waterbury – Reconstruct Main Street project (FEGC F 013-4(13)) as soon as is practicable:

(1) to ensure that project infrastructure will be resilient in the event of future flooding;

(2) to ensure, if feasible, that construction of the project is coordinated with Waterbury Complex reconstruction activities so as to minimize disruption to and impacts on residents and road users, and to maximize potential cost savings; and

(3) to determine whether the project plans need to be updated in light of the damage caused by Tropical Storm Irene and the planned configuration of the Waterbury Complex.

* * * Program Development – State Highway Bridge * * *

Sec. 5. PROGRAM DEVELOPMENT – STATE HIGHWAY BRIDGE

(a) The STP SCTT(1) – Townshend – State-owned Historic Sites – Scott Covered Bridge project is added to the fiscal year 2013 transportation program – program development – state highway bridge development and evaluation (D&E) list.

(b) Funds may be expended on the project as necessary from authorized statewide – state highway bridges D&E spending, provided the expenditure does not delay other programmed D&E expenditures.

* * * Vermont Local Roads * * *

Sec. 6. TOWN HIGHWAY VERMONT LOCAL ROADS

Authorized spending on the Vermont local roads program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	375,000	400,000	25,000
Total	375,000	400,000	25,000
<u>Sources of funds</u>			
State	235,000	235,000	0
Federal	140,000	165,000	25,000
Total	375,000	400,000	25,000

* * * State Aid for Federal and Nonfederal Disasters * * *

Sec. 7. STATE AID FOR NONFEDERAL DISASTERS

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	4,750,000	1,150,000	-3,600,000
Total	4,750,000	1,150,000	-3,600,000
<u>Sources of funds</u>			
State	1,550,000	1,150,000	-400,000
Federal	3,200,000	0	-3,200,000
Total	4,750,000	1,150,000	-3,600,000

Sec. 8. STATE AID FOR FEDERAL DISASTERS

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	0	3,600,000	3,600,000
Total	0	3,600,000	3,600,000
<u>Sources of funds</u>			
State	0	400,000	400,000
Federal	0	3,200,000	3,200,000
Total	0	3,600,000	3,600,000

Sec. 9. TOWN HIGHWAY STRUCTURES

Authorized spending on the town highway structures program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>

Grants	5,833,500	6,333,500	500,000
Total	5,833,500	6,333,500	500,000
<u>Sources of funds</u>			
State	5,833,500	6,333,500	500,000
Federal	0	0	0
Total	5,833,500	6,333,500	500,000

Sec. 10. TOWN HIGHWAY AID

Authorized spending on the town highway aid program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	26,482,744	25,982,744	-500,000
Total	26,482,744	25,982,744	-500,000
<u>Sources of funds</u>			
State	26,482,744	25,982,744	-500,000
Federal	0	0	0
Total	26,482,744	25,982,744	-500,000

* * * Rail * * *

Sec. 11. RAIL

The following modifications are made to the rail program:

(1) The “Rutland–Burlington crossings project” is renamed the “Rutland–Burlington rail and crossings project,” and the scope of the project is amended to include the installation of continuously welded rail.

(2) Spending authority for the Pittsford Bridge 219 project (HPP ABRB(9)) is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	6,600,000	1,500,000	-5,100,000
Total	6,600,000	1,500,000	-5,100,000
<u>Sources of funds</u>			
State	0	0	0
TIB	1,320,000	300,000	-1,020,000
Federal	5,280,000	1,200,000	-4,080,000
Local	0	0	0
Total	6,600,000	1,500,000	-5,100,000

(3) Spending authority for the Rutland–Burlington rail and crossings project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>

PE	600,000	600,000	0
Construction	900,000	6,000,000	5,100,000
Total	1,500,000	6,600,000	5,100,000
<u>Sources of funds</u>			
State	300,000	300,000	0
TIB	0	1,020,000	1,020,000
Federal	1,200,000	5,280,000	4,080,000
Local	0	0	0
Total	1,500,000	6,600,000	5,100,000

Sec. 12. RUTLAND–BURLINGTON RAIL AND CROSSINGS PROJECT

The “Rutland–Burlington rail and crossings project” is added to the fiscal year 2012 transportation program – rail program. The project includes the installation of continuously welded rail and the reconstruction of several rail-highway grade crossings along the Vermont Railway line between Rutland and Burlington.

Sec. 13. PURCHASE OF RAIL BRIDGE INSPECTION VEHICLE

(a) A new project is added to the fiscal year 2012 and 2013 transportation program – rail programs for the purchase of a servi-lift rail bridge inspection vehicle (“inspection vehicle”).

(b) Notwithstanding the authorized program spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to purchase an inspection vehicle using any federal grant funds received for its purchase.

(c) If a federal grant for the purchase of the inspection vehicle is not received or is not pending, notwithstanding the authorized project or activity spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to use up to a total of \$500,000.00 in transportation funds appropriated to the rail program for the purchase of the inspection vehicle, provided that the purchase does not delay the work schedule of a project or activity programmed in the fiscal year 2012 or 2013 rail programs.

(d) The agency shall promptly report any action taken under the authority granted in subsection (b) or (c) of this section to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

Sec. 14. ANTICIPATION OF FEDERAL RECEIPTS – RAIL PROGRAM

As authorized by 32 V.S.A. § 510, the secretary, with the prior approval of the commissioner of finance and management, may anticipate federal receipts into the transportation – rail program.

* * * Transportation Buildings * * *

Sec. 15. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Spending authority for the Mendon District 3/Southwest Regional Construction Office Building project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	50,000	0	-50,000
Construction	150,000	0	-150,000
Total	200,000	0	-200,000
<u>Sources of funds</u>			
State	200,000	0	-200,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	200,000	0	-200,000

(2) Spending authority for the Statewide – Brine-Making Facilities project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	3,000	3,000	0
Construction	0	80,000	80,000
Total	3,000	83,000	80,000
<u>Sources of funds</u>			
State	3,000	83,000	80,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	3,000	83,000	80,000

(3) Spending authority for the Middlebury – Design, Permit, and Construct 1–Bay Addition project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	5,000	0	-5,000
Construction	175,000	0	-175,000

Total	180,000	0	-180,000
<u>Sources of funds</u>			
State	180,000	0	-180,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	180,000	0	-180,000

Sec. 16. VTRANS TRAINING CENTER FACILITY; PROGRAM NAME

(1) The “VTrans Learning Campus” project within the fiscal year 2013 transportation buildings program is renamed the “VTrans Training Center” project, and the scope of the project is amended to read, “Renovation of existing materials & research building for use by the VTrans Training Center and the traffic research section.”

(2) The agency shall rename the VTrans Learning Campus program to be the VTrans Training Center program.

* * * Public Transit * * *

Sec. 17. PUBLIC TRANSIT

The scope of the Public Transit – Statewide Capital project is amended to include the construction of transit facilities.

Sec. 18. 24 V.S.A. § 5094 is added to read:

§ 5094. POWERS OF SECRETARY OF TRANSPORTATION

On behalf of the state and to carry out the purposes of this chapter and 19 V.S.A. § 10f, the secretary of transportation may:

(1) Execute and file an application with the Federal Transit Administration for federal assistance authorized by Titles 23 and 49 of the United States Code or other federal law.

(2) Execute and file certifications, assurances, or other documents the Federal Transit Administration may require before awarding a federal assistance grant or cooperative agreement.

(3) Execute grant and cooperative agreements with the Federal Transit Administration.

* * * Fiscal Year 2013 Transportation Infrastructure Bonds * * *

Sec. 19. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

Pursuant to 32 V.S.A. § 972, the state treasurer is authorized to issue transportation infrastructure bonds up to a total amount of \$11,500,000.00 for the purpose of funding:

- (1) the spending authorized in Sec. 20 of this act;
- (2) a debt service reserve to support the successful issuance of transportation infrastructure bonds; and
- (3) the cost of preparing, issuing, and marketing the bonds as authorized under 32 V.S.A. § 975.

Sec. 20. TRANSPORTATION INFRASTRUCTURE BONDS; SPENDING AUTHORITY

The amount of \$10,000,000.00 from the issuance of transportation infrastructure bonds is authorized for expenditure in fiscal year 2013 on eligible projects as defined in 32 V.S.A. § 972(d) in the state's fiscal year 2013 transportation program as follows:

- (1) \$9,000,000.00 on projects in program development.
- (2) \$1,000,000.00 on projects in the town highway bridge program.

* * * Agency of Transportation Positions * * *

Sec. 21. AGENCY OF TRANSPORTATION POSITIONS

(a) The agency may establish 17 new limited service positions related to the response to Tropical Storm Irene and the spring 2011 flooding. This authority shall expire on June 30, 2014, and the positions shall terminate by June 30, 2014.

(b) The establishment of three new permanent classified positions is authorized in the agency of transportation – rail program.

(c) The establishment of three new permanent classified positions is authorized in the agency of transportation – program development program.

(d) The positions authorized in this section are not subject to the restriction in Sec. A.108 of No. 63 of the Acts of 2011, and are in addition to the positions authorized in Sec. 87(e) of No. 75 of the Acts of the 2011 Adj. Sess. (2012).

* * * Central Garage * * *

Sec. 22. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2013, the amount of \$1,120,000.00 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

* * * Relinquishment of State Highway Segment to Municipal Control * * *

Sec. 23. RELINQUISHMENT OF VERMONT ROUTE 207 EXTENSION IN THE TOWN OF ST. ALBANS

(a) Pursuant to 19 V.S.A. § 15(2), the general assembly approves the secretary of transportation to enter into an agreement with the town of St. Albans to relinquish to the town's jurisdiction a segment of state highway right-of-way in the town of St. Albans which has not been constructed to be a traveled road, and which was to be known as the Vermont Route 207 Extension. This authority shall expire on June 30, 2022. The segment authorized to be relinquished measures approximately 1.7 acres, is approximately 160 feet in width, and starts at a point 200 feet west of the intersection of the U.S. Route 7/Vermont Route 207 centerline of highway project S0297(2), and continues westerly for 463 feet.

(b) Following relinquishment, the former state highway segment shall become a town highway and shall retain its limited access designation under 19 V.S.A. chapter 17 (limited access facilities).

(c) Following relinquishment, the state of Vermont shall retain ownership of the underlying fee interest in the former state highway segment. The town of St. Albans shall not sell or abandon any portion of the relinquishment area or allow any encroachments within the relinquishment area without the written permission of the agency of transportation.

* * * Enhancement Grant Program Priorities * * *

Sec. 24. ENHANCEMENT GRANT PROGRAM PRIORITIES

In addition to the priorities for salt and sand shed projects and bicycle or pedestrian facility projects specified in 19 V.S.A. § 38(g), in evaluating applications for enhancement grants in fiscal years 2013, 2014, and 2015, the transportation enhancement grant committee shall give preferential weighting to projects involving a municipality implementing eligible environmental mitigation projects under a river corridor plan that has been adopted by the agency of natural resources as part of a basin plan, under a municipal plan adopted pursuant to 24 V.S.A. § 4385, or under a mitigation plan adopted by the municipality and approved by the Federal Emergency Management

Agency. The degree of preferential weighting afforded shall be in the complete discretion of the transportation enhancement grant committee.

* * * State Aid for Town Highways * * *

Sec. 25. 19 V.S.A. § 306(e) and (f) are amended to read:

(e) State aid for town highway structures.

(1) There shall be an annual appropriation for grants to municipalities for maintenance, (including actions to extend life expectancy,) and for construction of bridges, and culverts, and; for maintenance and construction of other structures, including causeways and retaining walls, intended to preserve the integrity of the traveled portion of class 1, 2, and 3 town highways; and for alternatives that eliminate the need for a bridge, culvert, or other structure, such as the construction or reconstruction of a highway, the purchase of parcels of land that would be landlocked by closure of a bridge, the payment of damages for loss of highway access, and the substitution of other means of access.

(2) Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of \$5,833,500.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects.

(3) Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

(f) ~~{Deleted.}~~ State aid for federal disasters.

(1) Towns receiving assistance under the Federal Highway Administration's emergency relief program for federal-aid highways shall be eligible for state aid when a nonfederal match is required. Eligibility for aid under this subsection shall be subject to the following criteria:

(A) Towns shall be responsible for up to 10 percent of the total eligible project costs.

(B) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the agency.

(C) Such additional criteria as may be adopted by the agency through rulemaking under 3 V.S.A. chapter 25.

(2) Notwithstanding 32 V.S.A. § 706 and the limits on authorized program spending in an approved transportation program, the secretary may transfer appropriations between the program created in this subsection and the state aid for nonfederal disasters program created in subsection (d) of this section.

* * * Town Highway Bridges; Local Match * * *

Sec. 26. 19 V.S.A. § 309a is amended to read:

§ 309a. LOCAL HIGHWAY WORK; UNIFORM LOCAL SHARE; EXCEPTIONS

(a) Except as provided in subsection (b) or (c) of this section or in sections 309b and 309c of this title, in any case of highway or bridge construction in which a federal/state/local or state/local funding match is authorized, the municipality's share shall be ten percent of the project costs.

(b) This section shall not apply to:

~~(1) any project phase, preliminary engineering, right-of-way acquisition or construction, which was included in the transportation construction program submitted by the agency in February 1987 and approved by the general assembly in Act No. 91 of the Acts of 1987~~ any bridge replacement project in the town highway bridge program during the construction of which the municipality closes the bridge and does not construct a temporary bridge for the duration of the project, in which event the local match shall cover five percent of the project costs; or

~~(2) any project phase for which a municipality already has provided for payment of its share by issuing bonds or funding a reserve established under a capital improvement plan; or~~

(3) any project on a town highway for which the general assembly has authorized a different federal/state/local funding match; and any project which serves an "economic growth center" as defined in 23 U.S.C. § 143, and for

which the general assembly has authorized a different federal/state/local funding match;

(4) any project involving a bridge, including the approaches to a bridge, that extends between this state and an adjacent state;

(5) any bridge or roadway project involving a local financial share in which the municipality, after its review of the conceptual project plans, chooses not to proceed with the proposed project; in such circumstances, the agency shall pay 100 percent of the project costs incurred through the date it receives such notification from the municipality;

(6) any project where, by the mutual agreement of the municipality and agency, rehabilitation of an existing bridge is the preferred alternative, in which case the agency shall use the appropriate combination of state and federal funding to pay either 95 percent of the cost of rehabilitation, or 97.5 percent if the municipality closes the bridge and does not construct a temporary bridge for the duration of the project; or

(7) any project or portion of a project involving a structure that is part of the historic bridge program, where the agency shall use the appropriate combination of state and federal funding to pay 100 percent of the cost of rehabilitation.

* * *

* * * Tendering Payment in Condemnation Matters * * *

Sec. 27. 19 V.S.A. § 512 is amended to read:

§ 512. ORDER FIXING COMPENSATION; INVERSE CONDEMNATION; RELOCATION ASSISTANCE

(a) Within 30 days after the compensation hearing, the board shall by its order fix the compensation to be paid to each person from whom land or rights are taken. Within 30 days of the board's order, the agency shall file and record the order in the office of the clerk of the town where the land is situated, deliver to each person a copy of that portion of the order directly affecting the person, and pay or tender the award to each person entitled. If an interested person has not provided the agency identification information necessary to process payment of the award, or if an interested person refuses an offer of payment, payment shall be deemed to be tendered for the purposes of this subsection when the agency pays the award into an escrow account that is accessible by the interested person upon his or her providing any necessary identification information. A person to whom a compensation award is paid or tendered under this subsection may accept, retain, and dispose of the award to

his or her own use without prejudice to the person's right of appeal, as provided in section 513 of this title. Upon the payment or tender of the award as above provided, the agency may proceed with the work for which the land is taken.

* * *

* * * Van Pool Program within State Infrastructure Bank * * *

Sec. 28. REPEAL

10 V.S.A. § 280g(a)(10) and (d) (state infrastructure bank van pool loan program) are repealed.

* * * Elimination, Modification, and Retention of Reports * * *

Sec. 29. ELIMINATION OF REPORTS

10 V.S.A. § 445(b) (report regarding expenditures and income relating to Vermont trails system); 19 V.S.A. § 10e(c) (rail report); 19 V.S.A. § 10g(d)(1) (analysis of state's commitment to transportation projects); 19 V.S.A. § 10g(d)(2) (agency's plan to bring resources and cost into balance); 19 V.S.A. § 317(f) (report regarding the classification, number, and location of historic bridges); 32 V.S.A. § 706(4) (report of transfers of appropriations to cover federally reimbursable construction projects); and Sec. 50 of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 61 of No. 164 of the Acts of the 2007 Adj. Sess. (2008) (report on general condition of town assets in the bridge and culvert database), are repealed.

Sec. 30. 19 V.S.A. § 12b(d) is amended to read:

~~(d)(1) In coordination with the regular meetings of the joint fiscal committee in mid-July, mid-September, and mid-November, the secretary shall prepare a report on the status of the state's transportation finances and transportation programs. If a meeting of the committee is not convened on the scheduled dates of the joint fiscal committee meetings, the secretary in advance shall transmit the report electronically to the joint fiscal office for distribution to committee members. The report shall include a report on contract bid awards versus project estimates and a detailed report on all known or projected cost overruns, project savings, and funding availability from delayed projects; and the agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds with respect to:~~

~~(A) all paving projects other than statewide maintenance programs; and~~

~~(B) all projects in the roadway, state bridge, interstate bridge, or town bridge programs with authorized spending in the fiscal year of \$500,000.00 or more with a cost overrun equal to 20 percent or more of the authorized spending or generating project savings or delayed project available funding equal to 20 percent or more of the authorized spending.~~

~~(2) In addition, with respect to the July meeting of the joint fiscal committee, the secretary's report shall discuss the agency's plans to adjust spending to any changes in the consensus forecast for transportation fund revenues. If and when applicable, the secretary shall submit electronically to the joint fiscal office for distribution to members of the joint transportation oversight committee a report summarizing any plans or actions taken to delay project schedules as a result of:~~

~~(1) a generalized increase in bids relative to project estimates;~~

~~(2) changes in the consensus revenue forecast of the transportation fund or transportation infrastructure bond fund; or~~

~~(3) changes in the availability of federal funds.~~

Sec. 31. 23 V.S.A. § 304b(a) is amended to read:

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate ~~and~~, on trucks registered for less than 26,001 pounds, ~~and~~ on vehicles registered to state agencies under section 376 of this title ~~and, but~~ excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of \$23.00. The commissioner ~~shall~~ may adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. ~~The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources~~

~~and energy a report detailing, over a three year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.~~

Sec. 32. 24 V.S.A. § 5083(b) is amended to read:

(b) ~~The public transit advisory council~~ agency of transportation shall ~~annually evaluate existing services based on the goals established in subsection (a) of this section. Proposals~~ proposals for new public transit service shall be evaluated submitted by providers in response to a notice of funding availability, by examining feasibility studies submitted by providers. These ~~The feasibility studies shall address criteria set forth in the most recent public transit policy plan of January 15, 2000.~~

Sec. 33. 19 V.S.A. § 42 is added to read:

§ 42. REPORTS PRESERVED

Notwithstanding 2 V.S.A. § 20(d), the reports or reporting requirements of sections 7(k), 10b(d), 10c(k), 10c(l), 10g, 11f(i), 12a, 12b(d), and 38(e)(2) of this title shall be preserved absent specific action by the general assembly repealing the reports or reporting requirements.

Sec. 34. 24 V.S.A. § 5092 is amended to read:

§ 5092. REPORTS

The agency of transportation, in cooperation with the public transit advisory council, shall develop an annual report of financial and performance data of all public transit systems that receive operating subsidies in any form from the state or federal government, including but not limited to subsidies related to the elders and persons with disabilities transportation program for service and capital equipment. Financial and performance data on the elders and persons with disabilities transportation program shall be a separate category in the report. The report shall be modeled on the Federal Transit Administration's national transit database program with such modifications as appropriate for the various services and guidance found in the most current state policy plan. The report shall describe any action taken by the agency pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards. ~~The report~~ agency shall be available deliver the report to the general assembly by January 15 of each year. Notwithstanding 2 V.S.A. § 20(d), this annual report shall be produced indefinitely absent specific action by the general assembly repealing the report.

* * * Technical Corrections * * *

Sec. 35. 5 V.S.A. § 3403 is amended to read:

§ 3403. ACQUISITION AND MODERNIZATION

(a) The agency of transportation, as agent for the state, and with the specific prior approval of the general assembly, is authorized to acquire by purchase or condemnation, after the approval of the ~~Interstate Commerce Commission~~ Surface Transportation Board, if necessary, any portion or portions of the line of any railroad directly affecting the state, including rails and ties, rights-of-way, land, buildings, appurtenances, and other facilities required for the operation of the line or to facilitate its sale or lease for continued operation. This action may be taken in concert with another state or states as necessary to insure continued railroad service in this state.

* * *

Sec. 36. 5 V.S.A. § 3404 is amended to read:

§ 3404. RIGHT OF FIRST REFUSAL

(a) All railroad operating properties within the state offered for sale by a railroad, other than to another railroad for continued operation, shall also be offered to the state of Vermont. The offer shall be made in writing and shall be sent by certified mail to the agency. The offer shall include a map and a description of the property, the price, if available, a description of the present and past railroad use of the property, and any terms, reservations, or conditions the railroad proposes to include as part of the sale. Within 365 days, less any period of time that has elapsed because of the pendency of abandonment proceedings before the ~~Interstate Commerce Commission~~ Surface Transportation Board or the imposition of public use conditions under 49 U.S.C. § 10905, the agency shall accept or reject the offer. If the agency either rejects or fails to accept the offer in a timely manner, the state's preferential right under this section shall terminate, but in no event shall the railroad offer to sell the property, or any portion of it, to any other person on terms more favorable than the final terms offered to the agency.

* * *

* * * Copies of Municipal Reports * * *

Sec. 37. 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

The clerk of a municipality shall supply annually each library in such municipality with two copies of the municipal report, upon its publication.

The clerk shall also mail to the state library two copies thereof, and one copy each to the secretary of state, commissioner of taxes, ~~highway board~~, state board of health, commissioner for children and families, commissioner of Vermont health access, auditor of accounts, and board of education. Officers making these reports shall supply the clerk of the municipality with the printed copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

* * * Transportation Funding and Expenditures * * *

Sec. 38. TRAFFIC SAFETY ENFORCEMENT COSTS

The joint fiscal office, in consultation with the commissioner of public safety or designee, shall analyze and estimate the costs incurred by the state in enforcing the state's traffic safety laws, and study how these state police costs could be apportioned between the general fund and the transportation fund. The joint fiscal office shall submit a report of its findings to the joint transportation oversight committee and the joint fiscal committee prior to the joint fiscal committee's November 2012 meeting.

Sec. 39. ALTERNATIVE FUEL VEHICLES; USER PAY PRINCIPLE

The secretary of transportation or designee, in consultation with the commissioner of motor vehicles, commissioner of taxes, and commissioner of public service or their designees, shall analyze options for user fees and fee collection mechanisms for motor vehicles that use energy sources not currently taxed so as to contribute to the transportation fund. The secretary shall submit a report of his or her findings, and of options for user fees and fee collection mechanisms, to the joint transportation oversight committee and the joint fiscal committee prior to the joint fiscal committee's November 2012 meeting.

Sec. 40. COMMISSION ON TRANSPORTATION FUNDING

(a) Findings.

(1) Annual gasoline and diesel tax revenues are currently at the same level generated in 1999–2000, while vehicle miles traveled and consequent wear and tear on the state's highway system has increased by 13.2 percent.

(2) As fuel efficiency continues to improve and vehicles using fuel sources not taxed so as to contribute to the transportation fund become more common, the gap between the payments collected from system users and the wear and tear users impose on the system will continue to grow.

(3) New revenue sources and consistent revenue streams will be needed to sustain Vermont's transportation infrastructure and support economic prosperity.

(b) Composition of commission. A commission composed of three members is established. The speaker of the house, the senate committee on committees, and the governor shall each appoint one member as soon as possible after the effective date of this act. The commission members shall promptly elect a chair.

(c) Purpose and charge. The commission shall:

(1) estimate transportation and TIB fund revenues over a five-year time horizon starting in fiscal year 2014, taking into account motor vehicle fuel efficiency mandates and trends, and identify and analyze factors likely to impact transportation and TIB fund revenues and transportation infrastructure spending in the future;

(2) estimate the gap between costs and projected revenues over the five-year time horizon (the “five-year funding gap”) based on the cost of maintaining the state’s existing infrastructure, and under any other cost scenario the commission deems appropriate;

(3) evaluate potential new state revenue sources and how existing state revenue sources could optimally be modified to address the five-year and longer term expected transportation funding gaps. The commission shall estimate the amount of funds that would be generated from each new and modified revenue source, and identify implementation structures, requirements, and challenges.

(d) The commission shall deliver a written report of its findings, and of any legislative options for consideration, to the house and senate committees on transportation by January 15, 2013. The commission shall terminate on January 15, 2013.

(e) Assistance. Upon the request of the commission, the agency may contract with consultants to provide expert assistance to the commission. Any consultant fees shall be paid out of the transportation – policy and planning appropriation. Upon request, the commission shall receive administrative support from the agency of transportation and assistance from the joint fiscal office and any unit of the executive branch the commission deems appropriate.

(f) Any commission member who is not a full-time state employee shall be entitled to compensation and reimbursement of expenses as provided in 32 V.S.A. § 1010. Funds disbursed under this subsection shall be paid out of the transportation – policy and planning appropriation.

* * * Vermont Strong Motor Vehicle Plates * * *

Sec. 41. VERMONT STRONG MOTOR VEHICLE PLATES

The agency is authorized to expend up to \$12,000.00 from the central garage appropriation for the purchase of Vermont Strong motor vehicle plates for installation on agency vehicles in conformance with No. 71 of the Acts of the 2011 Adj. Sess. (2012).

* * * Natural Gas-Powered Motor Vehicles; Tax Proceeds * * *

Sec. 42. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(7) Sales of motor fuels taxed or exempted under 23 V.S.A. chapter 28 ~~of Title 23;~~ provided, however, that aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the transportation fund in accordance with 19 V.S.A. § 11.

* * *

Sec. 43. 19 V.S.A. § 11 is amended to read:

§ 11. TRANSPORTATION FUND

The transportation fund shall be comprised of the following:

* * *

(4) moneys received from the sales and use tax on aviation jet fuel and on natural gas used to propel a motor vehicle under 32 V.S.A. chapter 233;

* * *

Sec. 44. 23 V.S.A. § 3101 is amended to read:

§ 3101. DEFINITIONS

(a) The term “distributor” as used in this subchapter shall mean a person, firm, or corporation who imports or causes to be imported gasoline or other motor fuel for use, distribution, or sale within the state, or any person, firm, or corporation who produces, refines, manufactures, or compounds gasoline or other motor fuel within the state for use, distribution, or sale. ~~Kerosene, diesel oil, and aircraft jet fuel shall not be considered to be motor fuel under this subchapter.~~

~~(b)~~ When a person receives motor fuel in circumstances which preclude the collection of the tax from the distributor by reason of the provisions of the

constitution and laws of the United States, and ~~shall~~ thereafter ~~sell~~ sells or ~~use~~ uses the motor fuel in the state in a manner and under circumstances as may subject the sale to the taxing power of the state, the person shall be considered a distributor and shall make the same reports, pay the same taxes, and be subject to all provisions of this subchapter relating to distributors of motor fuel.

~~(e)~~(b) “Dealer” means any person who sells or delivers motor fuel into the fuel supply tanks of motor vehicles owned or operated by others.

(c) As used in this subchapter, “gasoline or other motor fuel” or “motor fuel” shall not include kerosene, diesel oil, aircraft jet fuel, or natural gas in any form.

(d) “Motor vehicle” means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.

* * * Effective Dates * * *

Sec. 45. EFFECTIVE DATES

(a) This section and Secs. 3 (portable hot mix plant), 4 (program development – roadway – CIRC alternatives), 11 (Rutland–Burlington rail and crossings project), 13 (purchase of rail bridge inspection vehicle), 14 (anticipation of federal receipts – rail program), 16 (VTrans learning campus facility), 18 (powers of secretary of transportation), 19 (authority to issue transportation infrastructure bonds), 21 (agency of transportation positions), 25 (state aid for town highways), 37 (copies of municipal reports), 38 (traffic safety enforcement cost study), 39 (alternative fuel vehicles; user pay study), 40 (commission on transportation funding), and 41 (Vermont Strong plates) of this act shall take effect on passage. The authority granted by Sec. 25(f) of this act (state aid for federal disasters) shall be retroactive to March 1, 2011.

(b) Secs. 42–44 shall take effect on July 1, 2013.

(c) All other sections of this act shall take effect on July 1, 2012.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Brennan of Colchester** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Brennan of Colchester

Rep. Potter of Clarendon

Rep. Corcoran of Bennington

Action on Bill Postponed**H. 785**

House bill, entitled

An act relating to capital construction and state bonding budget adjustment

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Emmons of Springfield**, action on the bill was postponed until Tuesday, April 24, 2012.

Rules Suspended; Bill Read Third Time and Passed**H. 792**

House bill, entitled

An act relating to approval of amendments to the charter of the city of Burlington

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage.

Thereupon, the bill was read the third time and passed.

Rules Suspended; Bill Read Third Time and Passed**H. 793**

House bill, entitled

An act relating to approval of amendments to the charter of the Winooski incorporated school district

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 770

House bill, entitled

An act relating to the state's transportation program

H. 792

House bill, entitled

An act relating to approval of amendments to the charter of the city of Burlington

H. 793

House bill, entitled

An act relating to approval of amendments to the charter of the Winooski incorporated school district

H. 794

House bill, entitled

An act relating to the management of search and rescue operations

Recess

At eleven o'clock and forty-six minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At one o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Adjournment

At one o'clock and thirty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, April 23, 2012, at two o'clock in the afternoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 353

House concurrent resolution designating May 6–12, 2012 as National Nurses Week in Vermont;

H.C.R. 354

House concurrent resolution congratulating the Bromley Mountain Ski Resort and the Bromley Outing Club on celebrating their respective 75th and 60th anniversaries;

H.C.R. 355

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks 2012 Division I championship girls' Nordic ski team;

H.C.R. 356

House concurrent resolution commemorating the 25th anniversary of the Rutland Open Door Mission at its Park Street location;

H.C.R. 357

House concurrent resolution in memory of Allyn Seward of East Wallingford;

H.C.R. 358

House concurrent resolution congratulating Circus Smirkus on its 25th anniversary;

H.C.R. 359

House concurrent resolution congratulating Marita Johnson on being named the Springfield Regional Chamber of Commerce's 23rd Annual Citizen of the Year;

H.C.R. 360

House concurrent resolution honoring Brian Lowe for his volunteer ornithological protection activities;

H.C.R. 361

House concurrent resolution congratulating the Woodstock Union High School Wasps on winning their third consecutive Division II boys' Nordic skiing championship;

H.C.R. 362

House concurrent resolution honoring the educational and community leadership of Jerry Sullivan;

H.C.R. 363

House concurrent resolution congratulating Alfred L. Pinsonneault Jr. on 50 exemplary years of service with the Town of Bennington Rescue Squad, Inc.;

H.C.R. 364

House concurrent resolution honoring Andreas Lehner for his outstanding administrative leadership in public education;

H.C.R. 365

House concurrent resolution congratulating the South Burlington Dolphins on winning the 2011 Northern Vermont Youth Football League state championship;

H.C.R. 366

House concurrent resolution designating April as the month of the military child in Vermont;

H.C.R. 367

House concurrent resolution congratulating Blanche Lamore on her 100th birthday;

H.C.R. 368

House concurrent resolution remembering the life of U.S. Army Major Jonathan Kirk Weaver;

H.C.R. 369

House concurrent resolution congratulating the Rochester School winners of the 2012 Vermont aviation art contest;

S.C.R. 43

Senate concurrent resolution designating May 2012 as Lupus Awareness Month in Vermont;

S.C.R. 44

Senate concurrent resolution congratulating Robert Swartz on being named the 2012 Northeast Kingdom Chamber Citizen of the Year;

S.C.R. 45

Senate concurrent resolution congratulating the 2012 Vermont Prudential Spirit of Community Award winners;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]

Monday, April 23, 2012

At two o'clock in the afternoon the Speaker called the House to order.

Adjournment

At two o'clock and fifteen minutes in the afternoon, noting the lack of a quorum, the Speaker adjourned the House until tomorrow, Tuesday, April 24, 2012 at ten o'clock in the forenoon pursuant to House rule 9.

Tuesday, April 24, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Caleb Abetti of St. Jacob of Alaska Orthodox Church, Northfield Falls, VT.

Pledge of Allegiance

Page Danielle Bachand of Starksboro led the House in the Pledge of Allegiance.

Message from the Senate No. 49

A message was received from the Senate by Mr. Bloomer its Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 45. Senate concurrent resolution congratulating the 2012 Vermont Prudential Spirit of Community Award winners.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 353. House concurrent resolution designating May 6–12, 2012 as National Nurses Week in Vermont.

H.C.R. 354. House concurrent resolution congratulating the Bromley Mountain Ski Resort and the Bromley Outing Club on celebrating their respective 75th and 60th anniversaries.

H.C.R. 355. House concurrent resolution congratulating the Champlain Valley Union High School Redhawks 2012 Division I championship girls' Nordic ski team.

H.C.R. 356. House concurrent resolution commemorating the 25th anniversary of the Rutland Open Door Mission at its Park Street location.

H.C.R. 357. House concurrent resolution in memory of Allyn Seward of East Wallingford.

H.C.R. 358. House concurrent resolution congratulating Circus Smirkus on its 25th anniversary.

H.C.R. 359. House concurrent resolution congratulating Marita Johnson on being named the Springfield Regional Chamber of Commerce's 23rd Annual Citizen of the Year.

H.C.R. 360. House concurrent resolution honoring Brian Lowe for his volunteer ornithological protection activities.

H.C.R. 361. House concurrent resolution congratulating the Woodstock

Union High School Wasps on winning their third consecutive Division II boys' Nordic skiing championship.

H.C.R. 362. House concurrent resolution honoring the educational and community leadership of Jerry Sullivan.

H.C.R. 363. House concurrent resolution congratulating Alfred L. Pinsonneault Jr. on 50 exemplary years of service with the Town of Bennington Rescue Squad, Inc.

H.C.R. 364. House concurrent resolution honoring Andreas Lehner for his outstanding administrative leadership in public education.

H.C.R. 365. House concurrent resolution congratulating the South Burlington Dolphins on winning the 2011 Northern Vermont Youth Football League state championship.

H.C.R. 366. House concurrent resolution designating April as the month of the military child in Vermont.

H.C.R. 367. House concurrent resolution congratulating Blanche Lamore on her 100th birthday.

H.C.R. 368. House concurrent resolution remembering the life of U.S. Army Major Jonathan Kirk Weaver.

H.C.R. 369. House concurrent resolution congratulating the Rochester School winners of the 2012 Vermont aviation art contest.

Message from the Senate No. 50

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 59. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

S. 113

Senate bill, entitled

An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools;

S. 138

Senate bill, entitled

An act relating to calculation of criminal sentences and record keeping for search warrants.

Joint Resolution Adopted in Concurrence**J.R.S. 59**

By Senators Carris and Mullin,

J.R.S. 59. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, 26, 2012, or, Friday, April 27, 2012, it be to meet again no later than Tuesday, May 1, 2012.

Was taken up read and adopted in concurrence.

Committee Not Relieved of Consideration**H. 427**

Rep. Olsen of Jamaica moved that the committee on Judiciary be relieved of House bill entitled

An act relating to penalties for possession of marijuana;

Pending the question, Shall the Committee on Judiciary be relieved of the bill? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the Committee on Judiciary be relieved of the bill? was decided in the negative. Yeas, 21. Nays, 119.

Those who voted in the affirmative are:

Bouchard of Colchester
Branagan of Georgia
Burditt of West Rutland
Clark of Vergennes
Crawford of Burke
Davis of Washington
Degree of St. Albans City

Dickinson of St. Albans
Town
Eckhardt of Chittenden
Greshin of Warren
Hebert of Vernon
Howard of Cambridge
Komline of Dorset
Larocque of Barnet

Lewis of Berlin
Olsen of Jamaica
Peaslee of Guildhall
Ram of Burlington
Savage of Swanton
Turner of Milton
Young of Glover

Those who voted in the negative are:

Acinapura of Brandon	Head of South Burlington	Moran of Wardsboro
Ancel of Calais	Heath of Westford	Mrowicki of Putney
Andrews of Rutland City	Helm of Fair Haven	Munger of South Burlington
Aswad of Burlington	Higley of Lowell	Myers of Essex
Atkins of Winooski	Hooper of Montpelier	Nuovo of Middlebury
Bartholomew of Hartland	Howrigan of Fairfield	O'Sullivan of Burlington
Batchelor of Derby	Hubert of Milton	Partridge of Windham
Bissonnette of Winooski	Jerman of Essex	Pearce of Richford
Bohi of Hartford	Jewett of Ripton	Peltz of Woodbury
Botzow of Pownal	Johnson of South Hero	Perley of Enosburgh
Brennan of Colchester	Johnson of Canaan	Poirier of Barre City
Browning of Arlington	Keenan of St. Albans City	Potter of Clarendon
Burke of Brattleboro	Kilmartin of Newport City *	Pugh of South Burlington
Campion of Bennington	Kitzmiller of Montpelier	Ralston of Middlebury
Canfield of Fair Haven	Klein of East Montpelier	Reis of St. Johnsbury
Cheney of Norwich	Koch of Barre Town	Russell of Rutland City
Christie of Hartford	Krebs of South Hero	Scheuermann of Stowe
Clarkson of Woodstock	Krowinski of Burlington	Shand of Weathersfield
Condon of Colchester	Kupersmith of South Burlington	Sharpe of Bristol
Conquest of Newbury	Lanpher of Vergennes	Shaw of Pittsford
Consejo of Sheldon	Lawrence of Lyndon	Smith of New Haven
Copeland-Hanzas of Bradford	Lenes of Shelburne	Spengler of Colchester
Corcoran of Bennington	Leriche of Hardwick	Stevens of Waterbury
Courcelle of Rutland City	Lewis of Derby	Stevens of Shoreham
Dakin of Chester	Lippert of Hinesburg	Strong of Albany
Deen of Westminster	Lorber of Burlington *	Stuart of Brattleboro
Devereux of Mount Holly	Macaig of Williston	Sweaney of Windsor
Donaghy of Poultney	Malcolm of Pawlet	Taylor of Barre City
Donahue of Northfield	Manwaring of Wilmington	Till of Jericho
Donovan of Burlington	Marcotte of Coventry	Toll of Danville
Edwards of Brattleboro	Marek of Newfane	Townsend of Randolph
Ellis of Waterbury	Martin of Springfield	Trieber of Rockingham
Emmons of Springfield	Martin of Wolcott	Waite-Simpson of Essex
Evans of Essex	Masland of Thetford	Webb of Shelburne
Fagan of Rutland City	McAllister of Highgate	Wilson of Manchester
Fisher of Lincoln	McCullough of Williston	Winters of Williamstown
Frank of Underhill	McFaun of Barre Town	Wizowaty of Burlington
French of Randolph	McNeil of Rutland Town	Yantachka of Charlotte
Grad of Moretown	Miller of Shaftsbury	Zagar of Barnard
Haas of Rochester	Mook of Bennington	

Those members absent with leave of the House and not voting are:

Buxton of Tunbridge	Morrissey of Bennington	South of St. Johnsbury
French of Shrewsbury	O'Brien of Richmond	Woodward of Johnson
Gilbert of Fairfax	Pearson of Burlington	Wright of Burlington

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

No, and I am still ‘very happy’ without inhaling any ‘mary jane’.”

Rep. Lorber of Burlington explained his vote as follows:

“Mr. Speaker:

I support decriminalization of marijuana. But that’s not what today’s vote is. And we all know it.”

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 189

Senate bill, entitled

An act relating to expanding confidentiality of cases accepted by the court diversion project

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 89

Rep. French of Randolph, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to Medicaid for Working Persons with Disabilities

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. ANALYSIS OF COSTS AND SAVINGS

(a) The agency of human services shall analyze the costs or savings associated with each of the following options:

(1) Entering into an agreement with the Social Security Administration in which the state pays the Medicare Part B premium for individuals enrolled in the Medicaid for Working People with Disabilities program.

(2) Increasing or eliminating the income limits or asset limits or both for eligibility for the Medicaid for Working People with Disabilities program.

(3) Disregarding spousal income or spousal assets or both when determining eligibility for the Medicaid for Working People with Disabilities program.

(4) Disregarding the income of a spouse enrolled in the Medicaid for Working People with Disabilities program when determining the other spouse's eligibility to receive Medicaid benefits.

(5) Permitting an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) immediately preceding a hospitalization or period of temporary unemployment to maintain his or her Medicaid eligibility during that period, as long as the period of hospitalization or unemployment does not exceed 90 days.

(6) Allowing an individual's enrollment in the Medicaid for Working People with Disabilities program to establish his or her eligibility for developmental disability services under Vermont's Global Commitment to Health waiver.

(7) Using benefits counselors at public and nonprofit organizations to increase public awareness of the Medicaid for Working People with Disabilities program and other work incentives for individuals with disabilities.

(b) No later than January 15, 2013, the secretary of human services shall report to the house committees on human services and on appropriations and the senate committees on health and welfare and on appropriations the results of the analysis conducted pursuant to subsection (a) of this section, as well as recommendations about whether and how to pursue any or all of the options described in subdivisions (a)(1) through (7) of this section.

Sec. 2. SPOUSAL INCOME DISREGARD; RULEMAKING

(a) If supported by the analysis performed pursuant to Sec. 1(a)(4) of this act, the secretary of human services shall disregard the income of an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) in determining the eligibility of such person's spouse to receive medical assistance pursuant to Title XIX (Medicaid) of the Social Security Act. The secretary shall implement the income disregard in a timely manner in order to ensure that it will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

(b) The secretary of human services shall adopt rules pursuant to 3 V.S.A. chapter 25 as necessary to implement the income disregard.

Sec. 3. DEVELOPMENTAL DISABILITY SERVICES

If supported by the analysis performed pursuant to Sec. 1(a)(6) of this act, the secretary of human services shall deem an individual's enrollment in the Medicaid for Working People with Disabilities program as establishing his or her financial eligibility for developmental disability services under the state's Global Commitment to Health waiver; provided that the individual shall still be required to meet clinical eligibility and funding priority criteria in order to receive developmental disability services pursuant to the waiver. The secretary shall implement the change to the financial eligibility criteria in a timely manner in order to ensure that it will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

Sec. 4. ORGAN AND TISSUE DONATION

(a) Subject to available resources, the commissioner of health shall undertake such actions as are necessary and appropriate, in his or her discretion, to coordinate the efforts of public and private entities involved with the donation and transplantation of human organs and tissues in Vermont and to increase organ and tissue donation rates.

(b) No later than January 15, 2013, the commissioner shall report to the house committee on human services and the senate committee on health and welfare regarding the actions taken pursuant to subsection (a) of this section and any additional efforts that the commissioner recommends but believes would require legislation.

Sec. 5. ORGAN AND TISSUE DONATION WORKING GROUP

(a) There is created an organ and tissue donation working group to make recommendations to the general assembly and the governor relating to organ and tissue donations.

(b) The members of the organ and tissue donation working group shall include:

(1) the commissioner of health or designee, who shall chair the working group;

(2) the commissioner of motor vehicles or designee;

(3) a representative of the Vermont Medical Society;

(4) representatives from the federally designated organ procurement organizations serving Vermont; and

(5) other interested stakeholders.

(c) The working group shall develop recommendations regarding:

(1) coordination of the efforts of all public and private entities within the state that are involved with the donation and transplantation of human organs and tissues;

(2) the creation of a comprehensive statewide program for organ and tissue donations and transplants;

(3) the establishment of goals and strategies for increasing donation rates in Vermont of deceased and, where appropriate, live organs and tissues;

(4) other issues related to organ and tissue donation and transplantation.

(d) The working group shall receive administrative support from the department of health.

(e) The working group shall report its findings and recommendations to the house committees on human services, on health care, and on transportation and the senate committees on health and welfare and on transportation, and to the governor, by January 15, 2013, after which time the working group shall cease to exist. The report shall include a recommendation about whether the department of health should establish an ongoing advisory council on organ and tissue donation.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to organ and tissue donation and Medicaid for Working Persons with Disabilities"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 244

Rep. Waite-Simpson of Essex, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to referral to court diversion for driving with a suspended license

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 2, in subdivision (b)(1), by striking "pursuant to 23 V.S.A. §§ 674 or 676"

Second: In Sec. 2, in subsection (e), by striking “department shall reinstate the person’s operator’s license” and inserting in lieu thereof “person shall be eligible to have his or her license reinstated.”

Third: In Sec. 2, by striking subsection (k) and inserting in lieu thereof a new subsection (k) to read:

(k) The court administrator, the director of the court diversion program, and the commissioner of motor vehicles shall jointly report to the general assembly on or before December 15, 2014 on the following:

- (1) implementation of the DLS diversion program;
- (2) the number of people enrolled in the program;
- (3) the number of people who have successfully completed the program;
- (4) the number of licenses reinstated;
- (5) the number of fines and amounts modified;
- (6) additional money collected by the state as a result of the program;
- (7) the advisability of implementing the program through roadside stops for driving without a license; and
- (8) extending the program to persons who are currently prohibited from participation pursuant to subdivision (b)(2) of this section.

Fourth: By adding a Sec. 2a to read as follows:

Sec. 2a. 23 V.S.A. § 674(a)(3) is added to read:

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the driving with license suspended diversion program shall not be counted as prior offenses under subdivision (2) of this subsection.

Fifth: By adding a Sec. 2b to read as follows:

Sec. 2b. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

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

* * *

(4) Five points assessed for:

* * *

(D) ~~§ 676.~~ Operating ~~_____~~ after
 suspension, revocation or
 refusal—civil violation;

* * *

(5) Ten points assessed for:

(A) ~~§ 674.~~ Operating after suspension
 or revocation of license;

* * *

Sixth: By adding a Sec. 2c to read as follows:

Sec. 2c. 23 V.S.A. § 2506 is amended to read:

§ 2506. PROCEDURE

When a sufficient number of points have been acquired, the commissioner shall suspend the license of an operator or the privilege of an unlicensed person, or nonresident to operate a motor vehicle, upon not less than 10 days' notice, and upon hearing, if requested for verification of the conviction records. The suspension shall be for 10 days for an accumulation of 10 points, 30 days for 15 points, 90 days for 20 points and for a period increasing by 30 days for each additional 5 points; except the suspension period for a conviction for first offense of sections ~~674~~, 1091, 1094, 1128, and 1133 of this title shall be 30 days; for a second conviction 90 days and for a third or subsequent six months, or the suspension period under the point values, whichever is greater. If a fatality occurs, the suspension shall be for a period of one year in addition to the suspension under the point values. For purposes of this section, a month shall be considered as 30 days and one year shall equal 365 days.

Seventh: By adding a Sec. 5 to read as follows:

Sec. 5. SUNSET

This act shall be repealed on July 1, 2015.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered**S. 251**

Rep. Lanpher of Vergennes, for the committee on Transportation, to which had been referred Senate bill, entitled

An act relating to miscellaneous amendments to laws pertaining to motor vehicles

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By adding four new sections after Sec. 11 to be sections 12–15 to read as follows:

* * * Gold Star and Next-of-kin Registration Plates* * *

Sec. 12. 23 V.S.A. § 304(k) is amended to read:

(k)(1) The commissioner of motor vehicles shall, upon proper application, issue special gold star and next-of-kin plates to gold star family members, as defined for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, as follows:

(A) Gold star plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces who lost their lives under the circumstances described in 10 U.S.C. § 1126, for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan 1126(a).

(B) Next-of-kin plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces not eligible for gold star plates under subdivision (A) of this subdivision (1) who lost their lives while serving on active duty or on active duty for training, or while assigned in a reserve or national guard unit in drill status, or as a result of injury or illness incurred during such service or assignment.

(2) The type and style of the gold star plate and next-of-kin plates shall be determined by the commissioner and the Vermont office of veterans' affairs, except that a gold star shall appear on one side of the plate gold star plates and a distinct emblem shall be approved for next-of-kin plates. An applicant shall apply on a form prescribed by the commissioner, and the applicant's eligibility will be certified by the office of veterans' affairs. A

plate shall be reissued only to the original holder of the plate. The commissioner may adopt rules to implement the provisions of this subsection. Except for new or renewed registrations, applications for the issuance of gold star or next-of-kin plates shall be processed in the order received by the department subject to normal workflow considerations.

* * * Emergency Services; Recovery of Expenses * * *

Sec. 13. 23 V.S.A. § 1112 is amended to read:

§ 1112. CLOSED HIGHWAYS

(a) Except by the written permit of the authority responsible for the closing, no person shall drive any vehicle over any highway across which there is a barrier or a sign indicating that the highway is closed to public travel.

(b) A person, including a municipal, county, or state entity, that deploys police, fire, ambulance, rescue, or other emergency services in order to aid a stranded operator of a vehicle, or to move a disabled vehicle, operated on a closed highway in violation of this section, may recover from the operator in a civil action the costs of providing any such services.

* * * Operating on a Closed Highway; Assessment of Points * * *

Sec. 14. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

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

(1) Two points assessed for:

* * *

(LL)	§ 1095.	~~Operating with television set installed~~ <u>Entertainment picture visible to the operator;</u>
(MM)	§ 1099.	Texting prohibited—first offense;
(NN)	§ 1112.	<u>Closed highways;</u>
~~(NN)~~ (OO)	§ 1113.	Illegal backing;
~~(OO)~~ (PP)	§ 1114.	Illegal riding on motorcycles;
~~(PP)~~ (QQ)	§ 1115.	Illegal operation of motorcycles on roadways laned for traffic;

~~(QQ)~~ <u>(RR)</u>	§ 1116.	Clinging to other vehicles;
~~(RR)~~ <u>(SS)</u>	§ 1117.	Illegal footrests and handlebars;
~~(SS)~~ <u>(TT)</u>	§ 1118.	Obstructing the driver's view;
~~(TT)~~ <u>(UU)</u>	§ 1119.	Improper opening and closing vehicle doors;
~~(UU)~~ <u>(VV)</u>	§ 1121.	Coasting prohibited;
~~(VV)~~ <u>(WW)</u>	§ 1122.	Following fire apparatus prohibited;
~~(WW)~~ <u>(XX)</u>	§ 1123.	Driving over fire hose;
~~(XX)~~ <u>(YY)</u>	§ 1124.	Position of operator;
~~(YY)~~ <u>(ZZ)</u>	§ 1127.	Unsafe control in presence of horses and cattle;
~~(ZZ)~~ <u>(AAA)</u>	§ 1131.	Failure to give warning signal;
~~(AAA)~~ <u>(BBB)</u>	§ 1132.	Illegal driving on sidewalk;
~~(BBB)~~ <u>(CCC)</u>	§ 1243.	Lighting requirements;
~~(CCC)~~ <u>(DDD)</u>	§ 1256.	Motorcycle headgear;
~~(DDD)~~ <u>(EEE)</u>	§ 1257.	Face protection;
~~(EEE)~~ <u>(FFF)</u>	§ 800.	Operating without financial responsibility;
~~(FFF)~~ <u>(GGG)</u>		All other moving violations which have no specified points;

* * *

* * * Conforming Change * * *

Sec. 15. 23 V.S.A. § 3501(5) is amended to read:

(5) "All-terrain vehicle" or "ATV" means any nonhighway recreational vehicle, except snowmobiles, having no less than two low pressure tires (10 pounds per square inch, or less), not wider than 60 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the

purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and ~~(ZZ)~~(BBB); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

and by renumbering the remaining section to be numerically correct.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 53

The Senate proposed to the House to amend House bill, entitled

An act relating to the Interstate Wildlife Violator Compact

First: In Sec. 1, by striking 10 V.S.A. § 4454 in its entirety and inserting in lieu thereof the following:

§ 4454. PENALTIES

(a) Notwithstanding section 4502 of this title, the commissioner may suspend a Vermont hunting, fishing, or trapping license and privileges to obtain such licenses of a person convicted of a wildlife violation in a state party to the compact, provided that the wildlife violation would have been the basis for suspension of license privileges in Vermont.

(b) No person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife, having been suspended or revoked pursuant to this chapter, shall be permitted to obtain a license to hunt, fish, or trap in Vermont.

(c) A person shall be subject to the financial penalties as set forth under section 4518 of this title if he or she:

(1) hunts, fishes, traps, possesses, or transports wildlife in Vermont in violation of a suspension or revocation of a license under chapter 108 of this title; or

(2) purchases or possesses a license to hunt, fish, trap, possess, or transport wildlife in Vermont in violation of a suspension or revocation of a license under chapter 108 of this title.

(d)(1) Prior to suspending a Vermont hunting, fishing, or trapping license of a resident of this state under subsection (a) of this section, the commissioner shall notify the person in writing. A suspension shall be deemed effective:

(A) when given if notice is made in person; or

(B) three days after the deposit of notice in the United States mails, if notice is made in writing.

(2) A person receiving notice under subsection (a) of this section may, within 20 days of the date notice is given, request a hearing before the commissioner on whether the requirements for suspension or penalty have been met. The requesting person may present evidence and arguments at the hearing only regarding whether:

(A) A participating state suspended the person's privileges;

(B) There was a conviction in the participating state;

(C) The person failed to comply with the terms of a citation issued for a wildlife violation in a participating state; or

(D) A conviction in a participating state could have led to a license suspension or penalty in Vermont

(3) At the hearing, the commissioner or a hearing officer designated by the commissioner may:

(A) Administer oaths;

(B) Issue subpoenas for the attendance of witnesses; and

(C) Admit all relevant evidence and documents, including notifications from participating states.

(4) Following a hearing under this subsection, the commissioner or a designated hearing officer may, based on the evidence, affirm, modify, or rescind the suspension of a license.

(5) A decision of the commissioner or hearing officer under this section shall not be appealable.

Second: By striking Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. 10 V.S.A. § 4502 is amended to read:

§ 4502. UNIFORM POINT SYSTEM; REVOCATION OF LICENSE

(a) A uniform point system which assigns points to those convicted of a violation of a provision of this part is established. The conviction report from the court shall be prima facie evidence of the points assessed. In addition to other penalties assessed for violation of fish and wildlife statutes, the commissioner shall suspend licenses issued under this part which are held by a person who has accumulated ten or more points in accordance with the provisions of subsection (c) of this section.

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

* * *

(3) Twenty points shall be assessed for:

(A) § 4192. General powers and duties-failure to obey warden

* * *

(U) Appendix § 37, excluding violations of annual deer limits, requirements for youth deer hunting weekend, and limitations on feeding of deer.

(V) § 4454. Interstate Wildlife Violator Compact.

* * *

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 440

The Senate proposed to the House to amend House bill, entitled

An act relating to creating an agency and secretary of education and clarifying the purpose of the state board

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

Sec. 1. 3 V.S.A. chapter 49 is added to read:

CHAPTER 49. EDUCATION

§ 2701. AGENCY AND SECRETARY CREATED

There is created an agency of education that shall be under the direction and supervision of a secretary of education.

§ 2702. SECRETARY OF EDUCATION

(a) With the advice and consent of the senate, the governor shall appoint a secretary of education from among no fewer than three candidates proposed by the state board of education. The secretary shall serve at the pleasure of the governor.

(b) The secretary shall report directly to the governor and shall be a member of the governor's cabinet.

(c) At the time of appointment, the secretary shall have expertise in education management and policy and demonstrated leadership and management abilities.

Sec. 2. 16 V.S.A. § 161 is amended to read:

§ 161. STATE BOARD OF EDUCATION; APPOINTMENT OF MEMBERS; TERM; VACANCY

The state board shall consist of ten members. Two of the members shall be secondary students, one of whom shall be a full member and the other of whom shall be a junior member who may not vote. All members shall be appointed by the governor with the advice and consent of the senate. In the appointment of the nonstudent members ~~consideration~~, priority shall be given to the selection of ~~such persons as shall adequately represent all sections of the state~~ with a demonstrated commitment to ensuring quality education for Vermont students. To the extent possible, the members shall represent geographically diverse areas of the state. The secretary shall serve on the state board as a nonvoting member.

* * *

Sec. 3. 16 V.S.A. § 163 is amended to read:

§ 163. OFFICE STAFF; MEETINGS

(a) ~~The office of the board shall be the office of the commissioner of education~~ The board shall be supported by adequate staff, who shall report to the board.

(b) The board shall meet monthly and shall hold special meetings as required for the performance of its duties. The times and places for regular and special meetings shall be designated by the ~~chairman~~ chair of the board. The ~~chairman~~ chair shall call a special meeting upon the written request of any two members.

Sec. 4. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD, GENERAL POWERS AND DUTIES

The state board shall ~~have supervision over, and management of the department of education and the public school system, except as otherwise provided; and shall evaluate education policy proposals, including timely evaluation of policies presented by the governor and secretary; engage local school board members and the broader education community; and establish and advance education policy for the state of Vermont. In addition to other specified duties, the board shall:~~

* * *

~~(4) Biennially or as required by the governor cause to be prepared a budget for all money to be expended by the department of education. Review and comment on an agency budget prepared by the secretary for the governor.~~

* * *

~~(10) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices which improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment. [Repealed.]~~

* * *

~~(19) Develop, in consultation with the secretary of state, and make available to school boards, sample ballot language for items which may be voted on by Australian ballot and for which no statutory language exists. [Repealed.]~~

* * *

(21) Report annually to the governor and the general assembly on the progress the board has made on the development of education policy for the state.

Sec. 5. 16 V.S.A. § 212(18), (19), (20), and (21) are added to read:

(18) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices that improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment.

(19) Develop, in consultation with the secretary of state, and make available to school boards sample ballot language for issues that may be decided by Australian ballot and for which no statutory language exists.

(20) Prepare a budget for the agency and submit it to the governor after review by the state board.

(21) Annually, prior to September 1, present the governor's education policy priorities to the state board.

Sec. 6. REPEAL

16 V.S.A. § 211 (appointment of commissioner by board of education; commissioner's reports to board) is repealed.

* * * Transition * * *

Sec. 7. AGENCY OF EDUCATION; SECRETARY OF EDUCATION;
POWERS AND DUTIES

On January 1, 2013:

(1) the secretary of education shall assume all the powers, duties, rights, and responsibilities of the commissioner of education; provided, however, that if a secretary appointed by the governor has not assumed office by January 1, 2013, then the commissioner or acting commissioner of the department on that date shall continue to perform the duties until the day on which the secretary assumes office; and

(2) the agency of education shall assume all the powers, duties, rights, and responsibilities of the department of education.

Sec. 8. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

On or before January 15, 2013, the legislative council shall prepare and submit a draft bill to the house and senate committees on education that makes statutory amendments of a technical nature and identifies all statutory sections that the general assembly must amend substantively to effect the intent of this act.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 7 (assumption of powers and duties) and 8 (legislative council) of this act shall take effect on passage.

(b) Secs. 1 (creation of agency), 2 (secretary as nonvoting member of board), and 6 (repeal of board's power to appoint commissioner) of this act shall take effect on January 1, 2013.

(c) Secs. 3 (board staff), 4 (board duties), and 5 (secretary's duties) of this act shall take effect on April 1, 2013.

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed**

H. 464

The Senate proposed to the House to amend House bill, entitled

An act relating to a moratorium on hydraulic fracturing wells for natural gas and oil production

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

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The drilling practice of hydraulic fracturing for natural gas exploration and production uses a variety of chemicals that are pumped into natural gas or oil wells.

(2) During hydraulic fracturing, chemicals and waste fluid pumped into wells may be introduced into and contaminate drinking water aquifers.

(3) To ensure that the state's underground sources of drinking water remain free of contamination, the general assembly should prohibit hydraulic fracturing for the purpose of the recovery of oil or natural gas until it is determined that hydraulic fracturing can be conducted without risk of contamination to the groundwater of Vermont.

(4) When hydraulic fracturing can be conducted without risk of contamination to the groundwater of Vermont, the general assembly should repeal the prohibition on hydraulic fracturing for oil and natural gas recovery.

Sec. 2. 29 V.S.A. § 503 is amended to read:

§ 503. DEFINITIONS

As used in this chapter:

* * *

(8) "Gas" means all natural gas, whether hydrocarbon or nonhydrocarbon, including hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casinghead gas, and all other fluid hydrocarbons not defined as oil.

* * *

(15) "Oil" means crude petroleum, oil, and all hydrocarbons, regardless of specific gravity, that are in the liquid phase in the reservoir and are produced at the wellhead in liquid form.

(16) "Oil and gas" means both oil and gas, or either oil or gas, as the context may require to give effect to the purposes of this chapter.

* * *

(29) "Fluid" means any material or substance which flows or moves whether in semi-solid, liquid, sludge, gas, or any other form or state.

(30) "Hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or gas.

Sec. 3. 29 V.S.A. chapter 14, subchapter 8 is added to read:

Subchapter 8. Hydraulic Fracturing for Oil or Gas Recovery

§ 571. HYDRAULIC FRACTURING; PROHIBITION

(a) No person may engage in hydraulic fracturing in the state.

(b) No person may collect, store, or treat the wastewater from hydraulic fracturing in a manmade lagoon or pond in the state.

Sec. 4. 10 V.S.A. § 1259 is amended to read:

§ 1259. PROHIBITIONS

(a) No person shall discharge any waste, substance, or material into waters of the state, nor shall any person discharge any waste, substance, or material into an injection well or discharge into a publicly owned treatment works any waste which interferes with, passes through without treatment, or is otherwise incompatible with those works or would have a substantial adverse effect on those works or on water quality, without first obtaining a permit for that discharge from the secretary. This subsection shall not prohibit the proper application of fertilizer to fields and crops, nor reduce or affect the authority or policy declared in joint house resolution 7 of the 1971 session of the general assembly.

* * *

(c) No person shall cause a direct discharge into Class A waters of any wastes that, prior to treatment, contained organisms pathogenic to human beings. Except within a waste management zone, no person shall cause a direct discharge into Class B waters of any wastes that prior to treatment contained organisms pathogenic to human beings.

(d) No person shall cause a discharge of wastes into Class A waters, except for on-site disposal of sewage from systems with a capacity of 1,000 gallons per day (gpd), or less, that are either exempt from or comply with the environmental protection rules, or existing systems, which shall require a permit according to the provisions of subsection 1263(f) of this title.

* * *

(j) No person shall discharge waste from hydraulic fracturing, as that term is defined in 29 V.S.A. § 503, into or from a pollution abatement facility, as that term is defined in section 1571 of this title.

Sec. 5. AGENCY OF NATURAL RESOURCES REPORT; SAFETY OF HYDRAULIC FRACTURING FOR OIL OR NATURAL GAS RECOVERY

(a) On or before January 15, 2013, and annually thereafter, the secretary of natural resources shall submit to the senate and house committees on natural resources and energy and the house committee on fish, wildlife and water resources a report regarding:

(1) whether the process of hydraulic fracturing for the purpose of the production or recovery of oil or natural gas can be conducted in a manner that prevents contamination of groundwater; and

(2) whether the prohibition on the use of hydraulic fracturing for oil or natural gas recovery under 29 V.S.A. § 571 should be repealed.

(b) A recommendation under this section shall be based on regulatory guidance, industry practices, and scientific studies that are available to the secretary at the time of a report required under subsection (a) of this section.

Sec. 6. AGENCY OF NATURAL RESOURCES; UNDERGROUND INJECTION CONTROL RULEMAKING

When the secretary of natural resources amends the rules regulating the discharge of waste into an injection well, including those discharges into an injection well for oil and gas recovery for which the agency of natural resources has jurisdiction, the amended rules shall provide that no permit shall be issued under 10 V.S.A. chapter 47 for a discharge of waste into an injection well when such a discharge would endanger an underground source of drinking water.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to hydraulic fracturing wells for natural gas and oil production”

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. McCullough of Williston** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. McCullough of Williston

Rep. Krebs of South Hero

Rep. Webb of Shelburne

**Senate Proposal of Amendment to House
Proposal of Amendment Concurred in**

The Senate concurred in the House proposal of amendment to House bill, entitled

An act relating to school resource officers

With the following proposal of amendment thereto:

In Sec. 1, 16 V.S.A. § 1167, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) School boards and law enforcement agencies are encouraged to enter into memoranda of understanding relating to:

(1) the possession and use of weapons and devices by a school resource officer on school property; and

(2) the nature and scope of assistance that a school resource officer will provide to the school system.

Which proposal of amendment to the House proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Concurred in
with a Further Amendment Thereto**

H. 785

The Senate proposed to the House to amend House bill, entitled

An act relating to capital construction and state bonding budget adjustment

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

Sec. 1. FINDINGS

(a) Damage to state-owned assets and infrastructure caused by Tropical Storm Irene on August 28, 2012 made necessary some of the reallocations and appropriations contained in this act.

(b) During the next biennium, much of the state's capital budget will be dedicated to the renovation and replacement of state-owned assets and infrastructure damaged by Tropical Storm Irene.

Sec. 2. Sec. 1 of No. 40 of the Acts of 2011 is amended to read:

Sec. 1. LEGISLATIVE INTENT

(a) Notwithstanding any other provision of law, this act, unlike previous acts relating to capital construction and state bonding, appropriates capital funds for the next two years. This ~~temporary~~ move to a biennial capital

budgeting cycle is designed to accelerate the construction dates of larger projects and thus create jobs for Vermonters sooner than would be possible under a one-year capital budgeting cycle.

(b) It is the intent of the general assembly that:

(1) ~~this move to a biennial capital budgeting cycle shall apply only to FY 2012 and FY 2013. [Repealed.]~~

(2) ~~any decision to move permanently to a biennial capital budgeting cycle shall receive study and consideration at a later date prior to implementation. [Repealed.]~~

(3) of the ~~\$154,739,399~~ \$158,027,602 million authorized by this act, no more than ~~\$92,249,757~~ \$87,952,312 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

* * *

Sec. 3. Sec. 2 of No. 40 of the Acts of 2011 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2012:

* * *

(4) Statewide, major maintenance. Of this amount, up to \$360,000 may be used for window sills and frames in coordination with the ARRA-funded window replacement project in Waterbury and up to \$270,000 may be used for Vergennes (the former Weeks School) Stormwater Runoff. For the purposes of this act, major maintenance shall mean deferred maintenance, planned capital renewal, and routine maintenance as these terms are defined in the memorandum of explanation of terminology dated April 14, 2011 from BGS to the chairs of the institutions committees: 8,000,000

(5) Statewide, BGS engineering, project management, and architectural project costs. ~~It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:~~ 2,428,802

* * *

(12) ~~Montpelier, 120 State St., planning and design for building renovations: -250,000 [Repealed]~~

* * *

(20) ~~Waterbury, wood chip fired boiler facility planning:~~ 500,000
[Repealed.]

* * *

(c) The following sums are appropriated in FY 2013:

* * *

(3) Statewide, major maintenance, as that term is defined in subdivision (b)(4) of this section: 7,900,000 6,700,000

* * *

(4) Statewide, BGS engineering, project management, and architectural project costs . ~~It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:~~
 2,428,802 2,433,490

* * *

(7) Vermont Veterans' Memorial Cemetery Master Plan: 250,000

(8) Montpelier, state house, renovate and refurnish house committee rooms, for completion of the third floor rooms, to continue to make better use of existing space and for upgrading the state house sound system. The speaker of the house shall be the ultimate point of contact and decision-maker for ensuring timely completion of this project. By January 1, 2013, the Ethan Allen room shall be restored to public use:
380,960

(9)(A) For planning, design, demolition, flood mitigation, permitting, construction and architectural and engineering costs for design development for a version of the partial reuse of the Waterbury Complex and new construction as described in the consultants' feasibility study dated March 9, 2012 and subsection (f) of this section:

11,975,000

(B)(i) For planning, design, site acquisition, leasing, including land leasing and lease purchasing, construction and architectural and engineering costs for design development or renovation related to the relocation or replacement of services previously provided at Vermont State Hospital, including the establishment of a 14-bed unit and a six-bed unit, respectively, at a hospital in southeastern Vermont and a hospital in southwestern Vermont; a new 25-bed hospital owned and operated by the state in central Vermont and proximate to an existing hospital; a secure seven-bed residential facility owned and operated by the state; or the provision of acute inpatient services at

temporary locations:

4,975,000

(ii) Notwithstanding 29 V.S.A. § 820, the commissioner of buildings and general services shall present three potential names for the new 25-bed hospital to the general assembly on or before January 15, 2013. The commissioner shall give preference to Vermonters integral to the advancement of mental health care in the state.

(C) To renovate and equip the National Life building in Montpelier to accommodate state offices as described in Sec. 20 of the 2012 capital budget adjustment act:

1,000,000

(D) Notwithstanding subsection (a) of this section, allocations in this subdivision shall be used only to fund the projects described in this subdivision (9). However, if costs associated with these projects exceed the amount allocated in this subdivision, the commissioner may transfer funds from other projects in this section.

(E) For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on the Waterbury Complex and the mental health system of care as soon as possible, it is the intent that more funds will be appropriated for these projects in future acts relating to capital construction and state bonding.

* * *

(f)(1) Option B of the of the Freeman, French, Freeman report published on March 9, 2012 aligns closely with the general assembly's vision for the Waterbury Complex. However, the general assembly believes that Option B could be modified to achieve a cost savings to Vermonters. On or before June 1, 2012, the department of buildings and general services shall present a modified design proposal, including proposals under subdivision (4) of this subsection (f) to the house committee on corrections and institutions, the senate committee on institutions, and the special committee described in this subsection.

(A) The general assembly envisions that the modified design proposal would meet the dual goals of achieving a cost savings for the state and delivering state services in the most efficient manner possible while still utilizing quality Vermont materials for the new building.

(B) Because the quality and efficiency of state services are as important as achieving a cost savings, the size of the new building and the size of the future complex in general should be determined only after the following assessments, which shall also consider outcomes such as reduced operating

expenses; judicious consumption of energy; increased use of telecommuting or hoteling; an awareness of modern workplace space standards; and minimized use of leased space:

(i) a program assessment to determine the amount of space necessary to house the agency of human services with room for projected future growth or any other state agency deemed appropriate by the commissioner of buildings and general services.

(ii) an assessment of the feasibility of moving the department of education to the complex, including a 20-year cost comparison to other options in central Vermont.

(2) A special committee consisting of the joint fiscal committee, the chairs of the house committee on corrections and institutions, and the senate committee on institutions ("special committee") is hereby established.

(A) The special committee shall meet to review, approve, or recommend alterations to the design described in this subsection at the next regularly scheduled meeting of the joint fiscal committee or at an emergency meeting called by the chairs of the house committee on corrections and institutions, the senate committee on institutions, and the joint fiscal committee.

(B) In making its decision, the special committee shall consider how the design impacts the ability of the state to provide services to citizens, programming, the financial consequences to the state of approval or disapproval of the proposal, and potential alternatives available. The special committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 406.

(C) The special committee may also meet to make decisions made necessary by unanticipated or unforeseen circumstances.

(3) The commissioner of buildings and general services shall notify the house committee on corrections and institutions and the senate committee on institutions at least monthly of updates to the planning process for the projects described in subdivision (c)(9) of this section. With approval of the speaker of the house and the president pro tempore, as appropriate, the house committee on corrections and institutions and the senate committee on institutions may meet up to six times when the general assembly is not in session to discuss any significant updates to the planning process for the Waterbury Complex and make recommendations to the special committee described in this subsection. The committees shall notify the commissioner of buildings and general services prior to holding a meeting pursuant to this subdivision. Committee

members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

(4) The commissioner of buildings and general services is authorized to take certain actions before formal approval of the design. Therefore, notwithstanding 29 V.S.A. § 152(a)(6), 165, or 166 or any other provision of law, in addition to producing a design, permitting, and applying for federal aid, upon passage of this act, the commissioner of buildings and general services may:

(A) lease, sell, lease purchase, subdivide, or donate the following buildings within the Waterbury Complex in their current condition: Wasson, 121 South Main Street, 123 South Main Street, 5 Park Row, 43 Randall Street, and their improvements.

(B) consider retaining the Ladd building or the Weeks building for state use. If the commissioner determines that retaining Ladd or Weeks is not in the best interest of the state, the commissioner may divest the state of these properties by any manner described in subdivision (4)(A) of this subsection (f) subject to the requirements of subdivision (2)(A) of this subsection (f).

(C) consider whether the Hanks building should be demolished to facilitate flood mitigation efforts and, if the commissioner so determines, demolish the building in accordance with the requirements of subdivision (4)(E) of this subsection (f). Otherwise, the commissioner may divest the state of Hanks by any manner described in subdivision (4)(A) of this subsection (f) subject to the requirements of subdivision (2)(A) of this subsection (f).

(D) consider whether the Stanley building should be retained for state use, or in the alternative, demolished in accordance with the requirements of subdivision (4)(E) of this subsection (f) and the site transferred to the town of Waterbury following negotiations between the town and the department of buildings and general services as to who shall be responsible for any demolition costs, subject to the requirements of subdivision (2)(A) of this subsection (f).

(E) assuming any required permits are attained, demolish any building in the Waterbury Complex except those named in subdivisions (f)(4)(A), (B), (C), or (D) of this section; the 1889–1896 early construction buildings, sometimes referred to as the historic bone or spine; the smokestack; and the public safety headquarters and forensics laboratory and their improvements.

(F) before selecting a heating system for the Waterbury Complex, investigate further and consider options to assure the personnel operating costs as well as other life cycle costs have been analyzed. The department or designee shall also conduct a comparative cost effectiveness analysis of producing heat and electricity.

(5) To the extent that amounts of potential funding from various sources are not clear upon passage of this act, the legislative intent for funding the capital costs of subdivision (c)(9) and subsection (f) of this section to the extent practicable is first through insurance funds that may be available for these purposes; second through the Federal Emergency Management Agency (FEMA) funds that may be available for these purposes and any required state match; third, in the case of the 14-bed unit and the six-bed unit described in No. 79 of the Acts of the 2011 Adj. Sess. (2012), through a rate payment with clearly defined terms of services; and last with state capital or general funds. Notwithstanding 32 V.S.A. §§ 134 and 135, any capital funds expended for projects described in this act that are reimbursed at a later date by insurance or FEMA shall be reallocated to fund capital projects in a future act relating to capital construction and state bonding.

Appropriation – FY 2012	\$26,928,802	\$26,178,802
Appropriation – FY2013	\$11,878,802	\$29,264,450
Total Appropriation – Section 2	\$38,807,604	\$55,443,252

Sec. 4. Sec. 4 of No. 40 of the Acts of 2011 is amended to read:

Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2012 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

* * *

(2) Vermont state hospital, ongoing safety renovations: ~~100,000~~ 2,555

* * *

(d) The following sums are appropriated in FY 2013 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

(1) ~~Corrections, rehabilitate VCI print shop: 143,920~~ [Repealed]

* * *

(e)(1) The sum of ~~\$14,000,000~~ \$9,000,000 is appropriated in FY 2013 to the department of buildings and general services for the agency of human services to continue the project described in subdivision (a)(1) of this section (co-location of department of health laboratory with the UVM Colchester research facility). ~~For the purpose~~ the purposes of completing a project approved for FY 2012 but delayed following Tropical Storm Irene and of allowing the department of buildings and general services to enter into contractual agreements and complete work on the health laboratory project as soon as possible, it is the intent of the general assembly that these are committed funds not subject to budget adjustment the balance needed to complete this project will be funded in FY 2014.

(2) Notwithstanding 29 V.S.A. § 820 and 10 V.S.A. chapter nine, the commissioner of buildings and general services shall present three potential names for the new health laboratory to the general assembly on or before January 15, 2013. The commissioner shall give preference to Vermonters who have made significant advancements in the field of public health.

(f) The commissioners of buildings and general services and of corrections shall study the feasibility of creating an industry at the Southern State Correctional Facility and any construction that would be required. The study shall include information regarding recidivism rates for participants in Vermont offender works programs and shall be presented to the house committee on corrections and institutions and the senate committees on judiciary and on institutions on or before January 15, 2013.

Appropriation – FY 2012	~~\$17,800,000~~ <u>\$17,702,555</u>
Appropriation – FY 2013	~~\$15,843,920~~ <u>\$10,700,000</u>
Total Appropriation – Section 4	~~\$33,643,920~~ <u>\$28,402,555</u>

Sec. 5. Sec. 5 of No. 40 of the Acts of 2011 is amended to read:

Sec. 5. JUDICIARY

* * *

(c) Hyde Park, Lamoille County Courthouse, planning and design for building renovations and addition: 250,000

Total Appropriation – Section 5	~~\$400,000~~ <u>\$650,000</u>

Sec. 6. Sec. 7 of No. 40 of the Acts of 2011 is amended to read:

Sec. 7. BUILDING COMMUNITIES GRANTS

(a) The following sums are appropriated in FY 2012 for building communities grants established in 24 V.S.A. chapter 137 ~~of Title 24~~:

(6) ~~For~~ To the agency of agriculture, food and markets for the agricultural fairs capital projects competitive grant program: 225,000

* * *

(b) The following sums are appropriated in FY 2013 for building communities grants established in 24 V.S.A. chapter 137 of Title 24:

* * *

(3) To the Vermont council on the arts for the cultural facilities grant program, the sum of which may be used to match funds which may be made available from the National Endowment of the Arts, provided all capital funds are made available to the cultural facilities grant program: 225,000

* * *

(6) ~~For~~ To the agency of agriculture, food and markets for the agricultural fairs capital projects competitive grant program: 225,000

(7) To the department of buildings and general services, for the regional economic development grant program: 225,000

Appropriation – FY 2012 \$1,350,000

Appropriation – FY 2013 ~~\$1,350,000~~ \$1,575,000

Total Appropriation – Section 7 ~~\$2,700,000~~ \$2,925,000

Sec. 6a. Sec. 8 of No. 40 of the Acts of 2011 is amended to read:

Sec. 8. EDUCATION

* * *

(b) ~~\$7,425,000~~ \$7,375,000 is appropriated in FY 2013 pursuant to 16 V.S.A. § 3448. ~~It is the intent of the general assembly that these are committed funds not subject to capital budget adjustment.~~

Total Appropriation – Section 8 ~~\$14,850,000~~ \$7,375,000

Sec. 7. Sec. 10 of No. 40 of the Acts of 2011 is amended to read:

Sec. 10. UNIVERSITY OF VERMONT

* * *

(b) ~~\$1,800,000 is appropriated in FY 2013 for the project described in subsection (a) of this section~~ The University of Vermont requested that any capital funding it was to receive in FY 13 be appropriated for Tropical Storm Irene recovery efforts.

* * *

Total Appropriation – Section 10 ~~\$3,600,000~~ \$1,800,000

Sec. 7a. Sec. 11 of No. 40 of the Acts of 2011 is amended by adding a new subsection (d) to read:

(d) To the extent the \$153,160,000 of general obligation bonds authorized by Sec. 25 of this act can be reduced by the use of bond premiums, up to \$2,000,000 of the authorized amount that is no longer required to fund appropriations of this act as amended by capital budget adjustment shall be appropriated to the Vermont State Colleges to offset part of the construction costs of a community college facility in Brattleboro.

Sec. 8. Sec. 12 of No. 40 of the Acts of 2011 is amended to read:

Sec. 12. NATURAL RESOURCES

(a) The following sums are appropriated to the agency of natural resources in FY 2012 for:

* * *

(3) the following water pollution control TMDL and wetland protection projects:

(A) Ecosystem restoration and protection: 2,500,000

(B) Waterbury waste treatment facility phosphorous removal: ~~2,700,000~~ 2,000,000

* * *

(b) The following sums are appropriated to the agency of natural resources in FY 2013 for:

(1) the water pollution control fund for the following projects:

(A) Clean water state/EPA revolving loan fund (CWSRF) match: ~~2,000,400~~ 1,480,720

* * *

(E) Administrative support – engineering, oversight, and program management. ~~It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:~~
300,000

(2) the following projects:

(A) the drinking water state revolving fund for balance of match to federal FY 2011 EPA grant: ~~2,433,140~~ 1,733,140

(B) Engineering oversight and project management. ~~It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:~~ 300,000

(C) the Vermont drinking water revolving loan fund: 200,000

* * *

(5) the following department of fish and wildlife projects:

* * *

(D) purchase of a training trailer, safety ramps, metal detectors, and game cameras: 58,600

(E) for the Vermont Youth Conservation Corps to perform stabilization, restoration, and cleanup of environmental damage to waterways, forests, and public access lands caused by Tropical Storm Irene, including projects such as controlling the spread of invasive species, stabilizing flood-eroded river and stream banks; restoring vital aquatic and wildlife habitats, removing toxic materials from fragile natural areas, and remediating recognized viewsheds: 200,000

Appropriation – FY 2012 \$14,221,713 \$13,521,713

Appropriation – FY 2013 \$11,683,540 \$10,922,460

Total Appropriation – Section 12 \$25,905,253 \$24,444,173

Sec. 9. Sec. 14 of No. 40 of the Acts of 2011 is amended to read:

Sec. 14. PUBLIC SAFETY

* * *

(c) ~~\$2,500,000 is appropriated in FY 2012 to the department of buildings and general services for the department of public safety for the design, construction, and fit up of a new public safety field station to consolidate the Brattleboro and Rockingham barracks. [Repealed.]~~

(d) ~~\$2,500,000 is appropriated in FY 2013 for the project described in subsection (c) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on this project as soon as possible~~ For the purpose of completing a project approved for FY 2012 but canceled following Tropical Storm Irene, it is the intent of the general assembly that these are committed funds not subject to budget adjustment to appropriate \$5,000,000 over FY 2014–2015 to the department of buildings and general services for the department of public safety for the design, construction, and fit up of a new

public safety field station to consolidate the Brattleboro and Rockingham barracks.

* * *

(f) The \$50,000 is appropriated for the commissioners of the departments of public safety and of buildings and general services shall study the feasibility of consolidating to conduct a comprehensive review of the Vermont State Police facilities currently located in Bradford and St. Johnsbury into one location needs. At a minimum, the review shall engage communities and prioritize needs for the following projects: consolidating the existing St. Johnsbury and Bradford offices and determining whether the Middlesex, Rutland, or Williston facility should be expanded, renovated, replaced, consolidated, or moved to a new location better situated within the service area. The ultimate goal of the review shall be determining how best to support the capacity of the Vermont State Police to provide services to Vermonters.

Appropriation – FY 2012	\$2,560,000	\$60,000

Appropriation – FY 2013	\$2,550,000	\$100,000

Total Appropriation – Section 14	\$5,110,000	\$160,000

Sec. 10. Sec. 15 of No. 40 of the Acts of 2011 is amended to read:

Sec. 15. CRIMINAL JUSTICE TRAINING COUNCIL; DEPARTMENT OF PUBLIC SAFETY

No capital funds other than those to be used for major maintenance shall be appropriated for the criminal justice training council or the ~~fire training council~~ department of public safety until the two entities enter into a memorandum of understanding regarding the use of facilities and a strategic plan to avoid duplication of facilities and services.

Sec. 11. Sec. 16 of No. 40 of the Acts of 2011 is amended to read:

Sec. 16. AGRICULTURE, FOOD AND MARKETS

(a) ~~\$1,300,000~~ \$1,050,000 is appropriated in FY 2012 to the agency of agriculture, food and markets for the best management practice implementation and Capital Equipment Assistance cost share ~~program~~ programs, to continue to reduce nonpoint source pollution in Vermont. Cost share funds shall not exceed 90 percent of the total cost of a best management practices project or 50 percent for a Capital Equipment Assistance project. Whenever possible, state funds shall be combined with federal funds to complete projects.

(b) \$1,200,000 is appropriated in FY 2013 for the program described in subsection (a) of this section.

Total Appropriation – Section 16 ~~\$2,500,000~~ \$2,250,000

Sec. 12. [Deleted]

Sec. 12a. Sec. 21 of No. 40 of the Acts of 2011 is amended to read:

Sec. 21. INFORMATION AND INNOVATION

~~\$5,334,139~~ \$5,284,139 is appropriated in FY 2013 to the department of information and innovation for the upgrade of the financial and human resources computer system. The department shall report back to the general assembly on or before January 15, 2012 regarding how the appropriations granted in Sec. C.100 of No. 63 of 2011 (~~H.441; the appropriations bill~~) have been used for this project.

Total Appropriation – Section 21 ~~\$5,334,139~~ \$5,284,139

Sec. 12b. Sec. 23 of No. 40 of the Acts of 2011 is amended to read:

Sec. 23. VERMONT INTERACTIVE TELEVISION

* * *

(b) ~~\$299,241~~ \$279,241 is appropriated in FY 2013 to Vermont Interactive Television for the project described in subsection (a) of this section.

Total Appropriation – Section 23 ~~\$598,483~~ \$578,483

* * * Financing This Act * * *

Sec. 13. Sec. 24 of No. 40 of the Acts of 2011 is amended to read:

Sec. 24. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

The following sums are reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 2 of this act:

* * *

(3) of the amount appropriated by Sec. 6 of No. 200 of the Acts of the 2007 Adj. Sess. (2008)(~~human resources~~ services and educational facilities grants): 3,969.35

* * *

(10) of the amount appropriated by Sec. 3 of No. 52 of the Acts of 2007 (public safety, forensic lab): 4,561.50

(11) of the amount appropriated by Sec. 1 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (major maintenance): 18,163.00

-
- (12) of the amount appropriated by Sec. 15 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (fire service training council): 2,894.85
- (13) of the amount appropriated by Sec. 18 of No. 43 of the Acts of 2009 (Vermont Veterans' Home North Wing Roof): 20,307.00
- (14) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 (ADA compliance Newport): 100,000.00
- (15) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 (Springfield Office Building): 150,000.00
- (16) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 (Middlesex, State Archives): 24,963.23
- (17) of the amount appropriated by Sec. 1 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (BGS engineering and architectural costs): 73,538.60
- (18) of the amount appropriated by Sec. 1 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Springfield SOB HVAC Upgrade): 133,747.70
- (19) of the amount appropriated by Sec. 1 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Bennington State Office Building): 750,000.00
- (20) of the amount appropriated by Sec. 3 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (CRCF grease trap): 171,675.62
- (21) of the amount appropriated by Sec. 15 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Pittsford firing range): 416,904.16
- (22) of the amount appropriated by Sec. 19 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Vermont Veterans' Home, gas line replacement): 9,912.95
- (23) of the amount realized from the sale of property authorized by Sec. 32 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (Hartford property): 5,300.00
- (24) of the amount realized from the sale of property authorized by Sec. 25 of No. 43 of the Acts of 2009 (Vergennes, relinquishment of right-of-way): 2.00
- (25) of the amount realized from the sale of property authorized by Sec. 26 of No. 52 of the Acts of 2007 (Brandon Training School): 202,157.45
- (26) of the amount realized from the sale of property authorized by Sec. 25 of No. 43 of the Acts of 2009 (Dummerston Library): 44,000.00

(27) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (water pollution control): 1,734.88

(28) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (potable water supply construction): 43,608.59

(29) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (water pollution control construction): 34,806.04

(30) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water pollution): 25,674.00

(31) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water pollution planning): 316.45

(32) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water supply planning): 3,187.30

(33) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water supply wastewater): 6,896.28

(34) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water pollution): 207,433.00

(35) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water pollution planning): 18,374.13

(36) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water supply): 909.76

(37) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water supply planning): 7,709.44

(38) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (pollution control): 19,637.00

(39) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (pollution control planning): 7,919.79

(40) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (water supply): 27,840.43

(41) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (zebra mussel control): 61,613.96

(42) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (water supply): 17,697.03

(43) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (municipal grants): 8,508.92

<u>(44) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (water pollution):</u>	<u>4,920.00</u>
<u>(45) of the amount appropriated by Sec. 10 of No. 185 of the Acts of the 1995 Adj. Sess. (1996) (Hinesburg project):</u>	<u>35,420.36</u>
<u>(46) of the amount appropriated by Sec. 18 of No. 62 of the Acts of 1997 (pollution control):</u>	<u>12,329.93</u>
<u>(47) of the amount appropriated by Sec. 18 of No. 62 of the Acts of 1997 (pollution control planning):</u>	<u>4,745.48</u>
<u>(48) of the amount appropriated by Sec. 13 of No. 29 of the Acts of 1999 (pollution control):</u>	<u>18,208.13</u>
<u>(49) of the amount appropriated by Sec. 13 of No. 29 of the Acts of 1999 (Shoreham project):</u>	<u>7,435.25</u>
<u>(50) of the amount appropriated by Sec. 15 of No. 148 of the Acts of the 1999 Adj. Sess. (2000) (Bennington sewer project):</u>	<u>5,000.00</u>
<u>(51) of the amount appropriated by Sec. 10 of No. 121 of the Acts of the 2003 Adj. Sess. (2004) (state-owned dams):</u>	<u>7.70</u>
<u>(52) of the amount appropriated by Sec. 11 of No. 52 of the Acts of 2007 (phase II Bennington fish station):</u>	<u>95.93</u>
<u>(53) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (Historic Preservation Grant Program):</u>	<u>9,959.00</u>
<u>(54) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (Historic Barns Preservation Grant Program):</u>	<u>9,750.00</u>
<u>(55) of the amount appropriated by Sec. 20 of No. 43 of the Acts of 2009 (Vermont council on the arts cultural facility grant):</u>	<u>3,516.00</u>
<u>(56) of the amount appropriated by Sec. 6 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Vermont council on the arts cultural facility grant):</u>	<u>2,033.00</u>
<u>(57) of the amount appropriated by Sec. 7 of No. 40 of the Acts of 2011 (Vermont council on the arts cultural facility grant):</u>	<u>10,662.00</u>
<u>(58) of the amount appropriated by Sec. 11 of No. 161 of the Acts of the 2009 Adj. Session (2010) (Vermont Interactive TV Equipment):</u>	<u>0.32</u>
<u>(59) of the amount appropriated by Sec. 10 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (VSC - major maintenance):</u>	<u>0.28</u>

(60) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (broadband development grant program): 50,000.00

(61) of the amount realized from the sale authorized by Sec. 25 of No. 43 of the Acts of 2009 (Former Tree Farm Property): 184,200.00

(62) of the amount appropriated by Sec. 1 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (ADA improvements): 47,020.92

(63) of the amount appropriated by Sec. 20 of the Acts of 2009 (human services and educational facilities competitive grant program): 10,904.00

(64) of the amount appropriated by Sec. 9 of No. 61 of the Acts of 2001 (pollution control and drinking water): 9,286.25

(65) of the amount appropriated by Sec. 10 of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (pollution control and drinking water): 31,070.58

(66) of the amount appropriated by Sec. 12 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (pollution control): 46,502.29

(67) of the amount appropriated by Sec. 9 of No. 43 of the Acts of 2009 (pollution control): 129,544.42

(68) of the amount appropriated by Sec. 12 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (pollution control): 33,596.46

Reallocations and Transfers – FY 2012 \$1,579,398.51

Reallocations and Transfers – FY 2013 \$3,288,203.36

Total Reallocations and Transfers \$4,867,601.87

Sec. 14. Sec. 26 of No. 40 of the Acts of 2011 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

~~(a)(1) On or before October 1, 2011, the City of Rutland shall present to the commissioner of buildings and general services a plan for the Rutland Multi Modal Transit Center (parking garage) that satisfies the city's interest in the parking garage, reduces the costs to the state of maintaining and operating the parking garage, protects the state's assets, and is designed to result ultimately in the sale of the parking garage and the Asa Bloomer State Office Building. Upon receiving the plan, the commissioner may accept, reject, or modify it.~~

~~(2) Upon receiving the plan referred to in subdivision (1) of this subsection or on or after October 2, 2011, the commissioner may petition the chair and vice chair of the house committee on corrections and institutions and the chair and vice chair of the senate committee on institutions for permission to sell the Asa Bloomer State Office Building and parking garage.~~

~~Notwithstanding any law, the chairs and vice chairs may authorize the sale to be conducted in accordance with 29 V.S.A. § 166 as long as the general assembly is not convened~~ The commissioner of buildings and general services may sell the Asa Bloomer State Office Building and the Rutland Multi-Modal Transit Center in accordance with the requirements of 29 V.S.A. § 166(d) and following negotiations with the City of Rutland. If negotiations with the city result in the city's management of the Transit Center, the commissioner may use \$81,0000 in unexpended capital funds previously appropriated to the department to purchase a flexible parking machine for the Transit Center. It is the intent of the general assembly that state offices remain downtown.

* * *

(f) The commissioner of buildings and general services may evaluate plans to sell, lease, subdivide, enter into long-term lease, or any combination thereof the St. Albans State Office Building located at 20 Houghton Street to support expanding the Vermont Service Center or other employers. It is the intent of the general assembly that state offices remain downtown.

(g) The secretary of agriculture, food and markets, the secretary of natural resources, the secretary of transportation, or the commissioner of buildings and general services, in consultation with the agency of commerce and community development, may sell, enter into a long-term lease of, and utilize surplus properties. The emergency board, the chair of the house committee on corrections and institutions, and the chair of the senate committee on institutions shall determine what land or facilities are surplus for the purpose of this subsection when the general assembly is not in session. When the general assembly is in session, requests shall be made to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 15. Sec. 25(f) of No. 161 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 29 of No. 40 of the Acts of 2011, is further amended to read:

(f) Following consultation with the state advisory council on historic preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans. Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in ~~Sec. 30 of this act~~ 29 V.S.A. § 155.

Sec. 15a. 29 V.S.A. § 152 is amended to read:

§ 152. DUTIES OF COMMISSIONER

(a) The commissioner of buildings and general services, in addition to the

duties expressly set forth elsewhere by law, shall have the authority to:

* * *

(36) enter into agreements with local information service providers allowing those providers to offer local and regional tourism information under guidelines established by the commissioner.

(37) enter into agreements with, and grant funds to, local or regional chambers of commerce to provide staffing and operations of state-owned welcome centers, rest areas, and information centers under guidelines established and enforced by the commissioner.

Sec. 16. Sec. 47(c) of No. 40 of the Acts of 2011 is amended to read:

(c) The secretary of administration is charged with coordinating this initiative. The secretary or designee shall track the state's progress in meeting these goals and, for the purpose of encouraging success, shall have the authority to implement incentive programs, to consult with public and nonpublic entities about strategies, and to require the relevant subdivisions of state government to take necessary actions. ~~The secretary may use incentives received by the state from an electric energy efficiency entity to cover the costs associated with tracking or encouraging success in meeting these goals.~~

* * * Miscellaneous Reallocations and Property Transfers New to
Capital Budget Adjustment * * *

Sec. 17. Sec. 32 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 32. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

(d) Pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services, with the approval of the secretary of administration, and following a report to the joint fiscal committee on the implications for operating and fee-for-space costs to the department of motor vehicles, shall sell, lease, subdivide, convert into condominiums, or any combination thereof, the Thayer School building located at 1193 North Avenue in Burlington. After payment of any costs and fees associated with the transaction, proceeds from a sale or lease shall be ~~deposited into a capital fund pursuant to 29 V.S.A. § 166(d), and proceeds from a lease shall be deposited into a property management fund pursuant to 29 V.S.A. § 160~~ reallocated in a future act relating to capital construction and state bonding.

(e) Notwithstanding 29 V.S.A. § 166(b), the commissioner of buildings and general services may sell or lease land, mineral rights, or both, as follows:

* * *

(5) after payment of any costs and fees associated with the transaction, proceeds from a sale or lease shall be deposited into a capital fund pursuant to 29 V.S.A. § 166(d), and proceeds from a lease shall be deposited into a property management fund pursuant to 29 V.S.A. § 160 reallocated in a future act relating to capital construction and state bonding.

* * *

* * * Transcription Errors * * *

Sec. 18. CORRECTION OF TRANSCRIPTION ERRORS

(a) Where it appears in Sec. 23(18) of No. 161 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 78 of No. 3 of the Acts of 2011, the number 1,922.00 shall be 11,922.00.

(b) Where it appears in Sec. 48 of No. 40 of the Acts of 2011, amending 29 V.S.A. § 168(b)(2)(B), the word "Moneys" shall be "Money".

Sec. 19. Sec. 1(b) of No. 28 of the Acts of 2011 (Maidstone Lake Road) is amended to read:

(b) Of the funds appropriated to the agency of natural resources in Sec. 20(b)(9) of No. 43 of the Acts of the 2009 Adj. Sess. (2010), for the purpose of upgrading and maintaining the road, the balance remaining as of January 1, 2011 shall be transferred to the town of Maidstone and shall be used by the town for that purpose.

* * * Policy New to Capital Budget Adjustment * * *

* * * Buildings and General Services * * *

Sec. 20. LOCATION OF STATE EMPLOYEES

The general assembly believes that it is in the best interest of the state and its employees for state offices displaced by Tropical Storm Irene to be relocated to permanent locations as soon as possible. It is the intent of the general assembly therefore that the agency of natural resources be relocated to the National Life building in Montpelier. The integration of the agencies of transportation, of natural resources, and of commerce and community development at the National Life building is designed to provide increased efficiencies and quality of services. Notwithstanding this particular relocation, it remains the intent of the general assembly to continue to make prudent investments in building space to meet the facility needs of the state and to shift

away from state reliance on leased space in accordance with 29 V.S.A. § 165(b).

Sec. 20a. LEASING PROPERTY

The commissioner of buildings and general services shall evaluate and report on or before January 15, 2013 whether and under what circumstances leasing property not owned by the state to accommodate space needs of an agency may be preferable to using state-owned property for the same purpose.

Sec. 21. 29 V.S.A. § 165 is amended to read:

§ 165. SPACE ALLOCATION, INVENTORY, AND USE; LEASING PROPERTY; COMMISSIONER'S PREAPPROVAL REQUIRED

* * *

(c)(1) Notwithstanding any provision of law to the contrary, the commissioner of buildings and general services shall have sole jurisdiction, sole authority and sole responsibility for making space allocations and designating uses in any portions of any building or structure for which the department of buildings and general services leases or pays for operation and maintenance expenses, or for which construction or fit-up was financed through an appropriation to the department of buildings and general services.

(2) On or before each January 15 and in accordance with this section, the commissioner shall present to the general assembly a report indicating which divisions have been moved over the past year and their former and present locations.

Sec. 22. [Deleted]

Sec. 23. RESTROOMS IN STATE BUILDINGS

By September 15, 2012, all single-occupancy restrooms with an outer door that can be locked by the occupant that are located in any building owned by the state shall be available for use regardless of the gender of the user.

Sec. 24. 29 V.S.A. § 157 is added to read:

§ 157. FACILITIES CONDITION ANALYSIS

(a) The commissioner of buildings and general services shall:

(1) maintain the condition of buildings and infrastructure under the commissioner's jurisdiction to provide a safe and healthy environment through sustainable practices and judicious capital renewal;

(2) conduct a facilities condition analysis each year of 20 percent of the building area and infrastructure under the commissioner's jurisdiction so that

within five years all property is assessed. At the end of the five years, the process shall begin again.

(3) The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption.

(b) The commissioner may use up to two percent of the funds appropriated to the department of buildings and general services for major maintenance and planning for the purpose described in subsection (a) of this section.

Sec. 25. EMPLOYEE SERVICE MEMORIAL

(a) The commissioner of buildings and general services, in consultation with the commissioner of human resources and an association representing Vermont state employees, shall develop a plan to honor the services of past, present, and future Vermont state employees with an appropriate memorial. On or before January 15, 2013, the commissioner of buildings and general services shall recommend a future location for an employee service memorial and provide estimated costs to the general assembly.

(b) The commissioner of buildings and general services may accept donations for the administration, materials, creation, and maintenance of the service memorial.

Sec. 26. PARKING IN THE CAPITOL COMPLEX

(a) To reduce parking pressures for state employees in Montpelier and to meet Vermont's energy plan goals of reducing energy use in the transportation sector, the commissioner of buildings and general services shall review existing plans and reports including the Governor's Comprehensive Energy Plan and, in consultation with the agency of transportation and the department of human resources, create a parking management program. Any capital improvements shall be presented to the general assembly for approval.

(b) The program shall include an assessment of legislative parking with proposals to terminate use of legislative parking by nonlegislative personnel and to assure availability of up to 240 parking spaces for legislators and staff assigned to a work station in the state house or at 1 Baldwin Street, including preferred parking for legislative leaders and those with special needs without specific assignments of parking spaces with minimal use of signage and in close proximity to the state house. The program shall include a report on the creation of preferred legislative parking areas for compact cars.

(c) The commissioner shall present the plan, including any associated capital requests or changes in operating costs, to the general assembly and the sergeant at arms on or before November 15, 2012.

Sec. 26a. CIVIL WAR MONUMENTS STUDY

The commissioner of buildings and general services, in collaboration with the Vermont Historical Society, shall study the feasibility of placing a Civil War monument at the Cedar Creek Battlefield in Middletown, Virginia in memory of the Vermont Brigade and of moving an existing Civil War monument in Winchester, Virginia to its original location in the Third Winchester Battlefield. The commissioner shall report its findings, including a request for any necessary appropriations, to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 26b. RENAMING THE STATE ARCHIVES BUILDING

The Vermont state archives and record administration building in Middlesex shall be renamed the "D. Gregory Sanford, Jr. State Archives and Records Building."

* * * Commerce and Community Development * * *

Sec. 27. 29 V.S.A. § 155 is amended to read:

§ 155. HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND

(a) There is established a special fund managed by and under the authority and control of the commissioner, comprising net revenue from the sale or lease of underutilized state-owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the fund; provided, however, that if the fund balance exceeds \$250,000.00 as of November 15 in any year, then the general assembly shall reallocate ~~the excess funds not subject to encumbrances~~ for other purposes in the next enacted capital appropriations bill.

(b) ~~Monies in the fund shall be available to the department for the stabilization or rehabilitation of state-owned historic property pursuant to a program created jointly by the department of buildings and general services and the division for historic preservation of the agency of commerce and community development~~ rehabilitation or stabilization of state-owned historic properties that are authorized by the general assembly to be in the fund program, for payment of costs of historic resource evaluations and archeological investigations, for building assessments related to a potential sale

or lease, for one-time fees for easement stewardship and monitoring, and for related one-time expenses.

(c) On or before January 15 of each year, the department shall report to the house committee on corrections and institutions and the senate committee on institutions concerning deposits into and disbursements from the fund occurring in the previous calendar year, the properties sold, ~~and leased~~, stabilized, or rehabilitated during that period, and the department's plans for future stabilization or rehabilitation of state-owned historic properties.

* * *

Sec. 27a. 24 V.S.A. § 5607 is added to read:

§ 5607. REGIONAL ECONOMIC DEVELOPMENT GRANT PROGRAM

(a) Creation of program. There is created a regional economic development grant program to provide competitive grants to regional economic development corporations for capital costs associated with the major maintenance, renovation, or planning related to the development of facilities reasonably expected to create job opportunities in Vermont communities. The program is authorized to award matching grants of up to \$25,000.00 per project. The required match shall be met through dollars raised and not through in-kind services. State investments made under this program shall be consistent with the goals found in section 4302 of this title and local and regional plans adopted pursuant to this title.

(b) Creation of committee. There is established a regional economic development grant advisory committee to administer and coordinate the regional economic development grant program. The committee shall include the secretary of administration or designee; the commissioner of buildings and general services or designee; and two members of the Vermont general assembly, one appointed by the speaker of the house of representatives and one appointed by the senate committee on committees. The members of the committee shall select a chair.

Sec. 28. 24 V.S.A. § 5601 is amended to read:

§ 5601. BUILDING COMMUNITIES GRANTS

(a) The purpose of this chapter is to establish one-for-one matching grants to help communities, nonprofit organizations, or, as applicable under section 5603 of this chapter, barn owners preserve important historic buildings and enhance community facilities. Therefore, in order to make it easy for communities, nonprofit organizations, or barn owners to apply, the ~~board or department~~ entity which administers a grant program under this chapter shall

work with other administrators of building communities grants to develop a standard application form which:

(1) describes the application process and includes clear instructions and examples to help applicants complete the form;

(2) includes an opportunity for a community, nonprofit organization, or barn owner to demonstrate its ability to generate one-for-one matching funds from local fundraising or other efforts;

(3) includes a summary of each of the other grants, their deadlines, and a statement that no community, nonprofit organization, or barn owner shall apply for more than one grant under this chapter for the same project in the same calendar year; and

(4) may include supplements specific to an individual grant.

(b) Each ~~board or department~~ entity which administers a grants program under this chapter shall establish a selection process which ensures equitable selection of grant recipients; and ensures accountability by grant recipients.

(c) Before it notifies an applicant of an award under this chapter, the ~~board or department~~ entity which administers the grant shall provide notice of the award and time and location of any award presentation to the chairs of the senate committee on institutions and the house committee on corrections and institutions, and those members of the general assembly who represent the area in which a successful applicant resides.

(d) Notwithstanding 32 V.S.A. § 701a, if, after an entity awards grant funds under this chapter, the funds remain unexpended and not subject to a grant agreement, the entity may reallocate the unexpended funds within its grant program within three years of the original award date. Any unexpended funds remaining after this three-year period that are not subject to a grant agreement shall be reallocated in future acts relating to capital construction and state bonding.

* * * Agriculture * * *

Sec. 28a. 10 V.S.A. § 54 is amended to read:

§ 54. RENTAL OF BUILDING; DISPOSITION OF FUNDS

The secretary may rent the building or parts thereof for exhibition purposes to available exhibitors with reasonable preference being given to exhibitors from this state and, with the approval of the governor, may rent or lease any part or all of the building to such parties and upon such terms and conditions and for such purposes as they shall determine to be in the best interests of the

state, and the income therefrom shall be paid to the state treasurer and held by him or her in a separate fund for the purposes of this ~~section and sections 51 and 53 of this title~~ chapter. The commissioner of finance and management shall issue his or her warrant for the payment from such fund of all sums expended or due for the purposes herein authorized.

Sec. 28b. 6 V.S.A. § 4824(a) is amended to read:

(a) State grant. State financial assistance awarded under this subchapter shall be in the form of a grant. When a state grant is intended to match federal financial assistance for the same on-farm improvement project, the state grant shall be awarded only when the federal financial assistance has also been approved or awarded. An applicant for a state grant shall pay at least ~~15~~ 10 percent of the total eligible project cost. The dollar amount of a state grant shall be equal to the total eligible project cost, less ~~15~~ 10 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded, except that a state grant shall not exceed ~~80~~ 90 percent of the total eligible project cost.

Sec. 28c. 6 V.S.A. § 4826(a) is amended to read:

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the secretary of agriculture, food and markets for cost assistance. Using state or federal funds or both, a state assistance grant shall be awarded, subject to the availability of funds, to applicants. Such grants shall not exceed ~~85~~ 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation Service cost share assistance. Application for a state assistance grant shall be made in the manner prescribed by the secretary. For purposes of this section, “waste storage facility” means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. This section ~~does not~~ shall apply to concrete slabs used for agricultural waste management.

Sec. 28d. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative ~~manure injection~~ equipment that will aid in the reduction of surface runoff of agricultural wastes to state waters, improve water quality of state waters,

reduce odors from manure application, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the agency of agriculture, food and markets to provide farms, nonprofit organizations, and custom applicators in Vermont with state financial assistance for the purchase of new or innovative ~~manure injection~~ equipment to improve manure application or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by rule by the secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators and nonprofit organizations and that are located in descending order within the boundaries of:

* * *

(d) ~~On or before January 15, 2009, and annually thereafter, the~~ The secretary of agriculture, food and markets shall report annually to the house and senate committees on agriculture and the house committee on fish, wildlife and water resources regarding the performance of and results achieved by providing capital assistance to custom applicators, nonprofit organizations, and farms for new or innovative ~~manure injection~~ equipment.

* * * Natural Resources * * *

Sec. 28e. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(9) The Vermont drinking water revolving loan fund which shall be used to provide loans to a municipality for the design, land acquisition, if necessary, and construction of a potable water supply when a household in the municipality has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees.

* * *

Sec. 28f. 24 V.S.A. § 4763a is added to read:

§ 4763a. LOANS FOR POTABLE WATER SUPPLIES

When a household has been involuntarily disconnected from a public water supply system and that disconnection did not occur as a result of nonpayment

of fees, a loan may be made to a municipality from the Vermont drinking water revolving loan fund, established in section 4753 of this title, for the design, land acquisition if necessary, and construction of a potable water supply, as that term is defined in 10 V.S.A. chapter 64. In such cases, the following conditions shall apply:

(1) Guaranteed repayment of the loan will be based on a municipal bond, but actual repayment may be made with funds from the owner of the potable water supply, as set forth in an agreement between the owner and the municipality.

(2) All conditions and limitations of section 4755 of this title shall apply to loans made under this section.

(3) No loan shall be made to a municipality under this section nor shall any part of any revolving loan made under this section be expended until both of the following take place:

(A) The secretary certifies to the bond bank that the wastewater system and potable water supply permit necessary for the design and construction of the proposed potable water supply to be financed by the loan have been issued to the owner of the supply.

(B) The applicant municipality certifies to the bond bank that the owner of the proposed potable water supply has secured all state and federal permits, licenses, and approvals necessary to construct and operate the improvements to be financed by the loan.

* * * Capital Planning and Finance * * *

Sec. 29. 29 V.S.A. § 168 is amended to read:

§ 168. STATE RESOURCE MANAGEMENT; REVOLVING FUND

* * *

(b) Revolving fund.

* * *

(2) The fund shall consist of:

* * *

~~(D) Monies associated with all incentives received by the state of Vermont from an entity appointed under 30 V.S.A. § 209(d)(2) (electric energy efficiency entities).~~

* * *

Sec. 30. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(6) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources, state capital investment plans, and wetland protection.

* * *

(11) Undertake comprehensive planning, including related preliminary planning, state capital investment plans, and engineering studies.

* * *

Sec. 31. 32 V.S.A. § 309 is amended to read:

§ 309. CAPITAL BUDGET REPORT

(a) Consolidated capital budget request. In addition to the general operating budget request to be submitted by the governor to the general assembly pursuant to this chapter, the governor shall submit to the general assembly, not later than the third Tuesday of every annual session, a consolidated capital budget request ~~for the following fiscal year, which encompasses.~~ In the first year of the biennium the budget shall relate to the next two fiscal years. In the second year of the biennium the budget shall relate primarily to the next fiscal year but may request amendments to the current or to previous fiscal years or refer to requests for future fiscal years. The request shall encompass all undertakings that may require state general obligation debt financing, including transportation projects as follows:

(1) Activities proposed for funding by general obligation debt financing shall be restricted to tangible capital investments, but may include the planning, and design ~~and engineering~~ directly associated with a tangible capital investment.

(2) Proposed activities shall be further restricted to those capital expenses allowed under federal laws governing the use of state bond proceeds.

(3) The capital budget request shall be segmented by the expected functional life of proposed activities, and thus by a corresponding prudent use

of either long-term bond issues with a customary 20-year payback period, or shorter-term bond issues with a lesser payback period.

(4) The capital budget shall not include requests for debt financing of state agency operating expenses not directly related to a capital investment as required hereinabove. The latter operating expenses shall be accounted for in the governor's annual general operating budget request.

(b) Affordable bond authorization proposal. ~~The~~ In the first year of the biennium, the annual capital budget request of the governor shall include a statement of the total amount of new state tax supported general obligation debt the governor considers advisable for the general assembly to authorize for ~~the following next two fiscal year years,~~ after having considered the maximum amount recommended for the following fiscal year by the capital debt affordability advisory committee as provided by subchapter 8 of chapter 13 of this title.

* * *

Sec. 32. 32 V.S.A. § 310 is amended to read:

§ 310. FORM OF ANNUAL CAPITAL BUDGET AND ~~LONG-RANGE~~
SIX-YEAR CAPITAL PROGRAM PLAN

(a) Each ~~annual~~ biennial capital budget request submitted to the general assembly shall be accompanied by, and placed in the context of, a ~~long-range~~ six-year state capital program plan to be prepared, and revised annually, by the governor and approved by the general assembly. The six-year plan shall include a list of all projects which will be recommended for funding in the current and ensuing five fiscal years. The list shall be prioritized based on need.

(b) The ~~annual~~ capital budget request for the following fiscal year shall be presented as the next ~~one-year~~ increment of the ~~long-range~~ six-year plan. Elements of the plan shall include:

(1) Assessment and projection of need.

(A) Capital needs and projections shall be based upon current and projected statistics on capital inventories and upon state demographic and economic conditions.

(B) Capital ~~inventories~~ funding shall ~~encompass all state-financed capital programs, including~~ be categorized as follows:

- (i) state buildings, facilities, and land acquisitions;
- (ii) higher education;

(iii) aid to municipalities for education, environmental conservation, including water, sewer, and solid waste projects, and other purposes; and

(iv) transportation facilities.

(C) The capital needs and projections shall be for ~~each of the next~~ the current and the next five fiscal years, with longer-term projections presented for programs with reasonably predictable longer-term needs.

(D) Capital needs and projections shall be presented independently of financing requirements or opportunities.

(2) Comprehensive cost and financing assessment.

(A) Amounts appropriated and expended for the current fiscal year and for the preceding fiscal year shall be indicated for capital programs and for individual projects. The assessment shall indicate further the source of funds for any project which required additional funding and a description of any authorized projects which were delayed.

(B) Amounts proposed to be appropriated for the following fiscal year and each of the ~~four~~ five years thereafter shall be indicated for capital programs and for individual projects and shall be revised annually to reflect revised cost estimates and changes made in allocations due to project delays.

(C) The capital costs of programs and of individual projects, including funds for the development and evaluation of each project, shall be presented in full, for the entire period of their development.

(D) The operating costs, both actual and prospective, of capital programs and of individual projects shall be presented in full, for the entire period of their development and expected useful life.

(E) The financial burden and funding opportunities of programs and of individual projects shall be presented in full, including federal, state, and local government shares, and any private participation.

(F) Alternative methods of financing capital programs and projects should be described and assessed, including debt financing and use of current revenues.

Sec. 33. 32 V.S.A. § 701a is amended to read:

§ 701a. CAPITAL CONSTRUCTION BILL

(a) When the capital budget has been submitted by the governor to the general assembly, it shall immediately be referred to the committee on corrections and institutions which shall proceed to consider the budget request

in the context of the ~~long-range~~ six-year capital program plan also submitted by the governor pursuant to sections 309 and 310 of this title. The committee shall also propose to the general assembly a prudent amount of total general obligation bonding for the following fiscal year, for support of the capital budget, in consideration of the recommendation of the capital debt affordability advisory committee pursuant to subchapter 8 of chapter 13 of this title.

(b) As soon as possible the committee shall prepare a bill to be known as the "capital construction bill," which shall be introduced for action by the general assembly.

(c) ~~The sums appropriated and~~ spending authority authorized by a capital construction act shall ~~be continuing and shall not revert at the end of the fiscal year~~ carry forward until expended, unless otherwise provided. Any unencumbered funds remaining after a two-year period shall be reported to the general assembly and may be reallocated in future capital construction acts.

(d) On or before October 15, each entity to which spending authority is authorized by a capital construction act shall submit to the department of buildings and general services a report on the status of each project authorized. The report shall follow the form provided by the department of buildings and general services and shall include details regarding how much of the appropriation has been spent, how much of the appropriation is unencumbered, actual progress in meeting the goals of the project, and any impediments to completing the project on time and on budget. The department may request additional or clarifying information regarding each project. On or before January 15, the department shall present the information collected to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 34. 32 V.S.A. § 954 is amended to read:

§ 954. PROCEEDS

(a) The proceeds arising from the sale of such bonds, ~~except~~ inclusive of any premiums, shall be applied to the purposes for which they were authorized and such purposes shall be considered to include the expenses of preparing, issuing, and marketing such bonds and any notes issued under section 955 of this title, and amounts for reserves, but no purchasers of such bonds shall be in any way bound to see to the proper application of the proceeds thereof. The state treasurer shall pay the interest on, principal of, investment return on, and maturity value of such bonds and notes as the same fall due or accrue without further order or authority. ~~Any premium received upon the sale of such bonds or notes shall be applied to the payment of the first principal or interest to~~

~~come due thereon.~~ The state treasurer with the approval of the governor, may establish sinking funds, reserve funds, or other special funds of the state as he or she may deem for the best interest of the state. To the extent not otherwise provided, the amount necessary each year to fulfill the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on all such bonds then outstanding shall be included in and made a part of the annual appropriation bill for the expense of state government, and such principal and interest on, investment return and maturity value of, and sinking fund installments on the bonds as may come due before appropriations for the fulfillment thereof have been made shall be fulfilled from the applicable debt service fund.

* * *

Sec. 35. 32 V.S.A. § 962 is added to read:

§ 962. PRIVATE USE COMPLIANCE, NOTICE AND APPROVAL

Any entity receiving an appropriation financed with proceeds of tax-exempt bonds of the state shall notify and receive approval from the state treasurer and the secretary of administration at least 90 days prior to finalizing an agreement with a nonpublic or for-profit entity to rent, lease, sell, or otherwise dispose of property financed with those proceeds and also shall pay any cost related to compliance with the Internal Revenue Code of 1986, as amended, resulting from disposal of the property. This notification requirement shall not apply if the proceeds were included in the five percent allowance for private use prior to the issuance of bonds, or if the proceeds were provided, or the property was disposed of, as a grant or otherwise with no payment or repayment made or required to be made to the state or to the entity.

Sec. 36. 32 V.S.A. § 993 is added to read:

§ 993. PUBLIC APPROVAL, OUT-OF-STATE ISSUERS

Notwithstanding any provision to the contrary in Title 9, the governor, in consultation with the state treasurer, shall have exclusive authority to grant any public approval required under Section 147(f)(2) of the Internal Revenue Code of 1986, as amended, pertaining to the proposed issuance of qualified private activity bonds when the purpose of the bonds is to finance or refinance purposes to be located within the state and the bonds are proposed by any issuers of qualified private activity bonds organized under the laws of a jurisdiction other than the state of Vermont. Approval shall not be withheld unless the governor, in consultation with the state treasurer, determines in good faith that the issuance is not financially sound.

* * * Judiciary and Corrections * * *

Sec. 37. JOINT COMMITTEE ON CORRECTIONS OVERSIGHT

During the 2012 interim, the joint committee on corrections oversight shall:

(1) explore how criminal justice services are being delivered currently in the Northwest quadrant of the state. The committee's work shall include a review of the current facilities in the Northwest quadrant of the state, a determination of whether those facilities have sufficient space for their current populations and provide sufficient supports related to housing, parenting, mental health, substance abuse, trauma, education, and job training, and a recommendation for further action regarding current and future facilities in the Northwest quadrant of the state. In addition to facilities, the committee shall also consider how criminal justice services generally are being delivered in the Northwest quadrant and whether there are any opportunities for improvement or collaboration to reduce the total number of individuals incarcerated. On or before January 15, 2013, the committee shall present its analysis together with any related proposals for legislation to the house and senate committees on judiciary and the house committee on corrections and institutions.

(2) monitor the progress of construction and improvements to existing programming at the Chittenden Regional Correctional Facility and determine whether the changes that have been made or any proposed changes to the facility or to programming are sufficient to ensure inmate health, safety, and human dignity.

Sec. 37a. SUSTAINABLE PRISONS

The commissioner of corrections, in collaboration with the department of buildings and general services, shall train corrections staff and inmates in sustainable practices for the reduction of energy usage, water consumption, and waste disposal at correctional facilities and to provide educational and green job training to inmates. The commissioners of buildings and general services and of corrections shall report to the general assembly on the progress of this training on or before January 15, 2013.

Sec. 37b. [Deleted]

Sec. 38. Sec. 22(a) of No. 179 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. 14 of No. 157 of the Acts of the 2009 Adj. Sess. (2010), is amended further to read:

(a) Secs. 11 and 12 of this act shall take effect on July 1, ~~2012~~ 2013.

* * * Information Technology * * *

Sec. 39. INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDS

In order for state government operations to be effective and efficient, timely and reasonable replacement and upgrading of information technology systems are appropriate and necessary. Over the last decade, capital funds have been used increasingly to pay for these important projects. However, there is not enough capital funding available to meet the existing uses of this fund. Therefore, the secretary of administration, working in collaboration with the state treasurer, shall review the options for funding these projects described in the administration's report titled "Information Technology Infrastructure Needs: A Study of Financing Options" published on January 13, 2011, including a base line appropriation or revolving loan fund. The secretary and treasurer shall present a recommendation of any required statutory changes to the house committee on corrections and institutions and the senate committee on institutions on or before January 15, 2013.

* * * Education * * *

Sec. 39a. BRATTLEBORO AREA HIGHER EDUCATION COLLABORATIVE

The chancellor of the Vermont State Colleges, in conjunction with the prekindergarten-16 council created in 16 V.S.A. § 2905 shall review and, if feasible, facilitate the development of a higher education collaborative or public-private partnerships in the Brattleboro area to develop a student curriculum and initiative to maximize resources for students and benefits to the region, including the development of a high-tech workforce, and to include the Community College of Vermont, Landmark College, Marlboro College, the Union Institute, the School of International Training, Vermont State Colleges, Vermont Technical College, and other interested institutions. In conducting its review, the council shall consider the five-college initiative in Northampton, Massachusetts.

* * * Capital Bill Definitions * * *

Sec. 40. DEFINITIONS

For purposes of this act:

(1) "Allocation" means the portion of an appropriation that is designated to fund a particular project.

(2) "Appropriation" means the spending authority granted to an entity to fund a group of projects.

(3) "Encumbrance" means a portion of an allocation reserved for the subsequent payment of existing purchase orders or contracts made in furtherance of completing a project, the total of which may not exceed the amount of the original allocation. The commissioner of finance and management shall make final decisions on the appropriateness of encumbrances.

Sec. 41. ENGINEERING COSTS

The joint fiscal office shall study during the 2012 interim how best to allocate engineering costs between the capital and general funds.

* * * Effective Dates and Statutory Revision * * *

Sec. 42. Sec. 57(a) of No. 40 of the Acts of 2011 is amended to read:

(a) This act shall take effect on passage, except:

~~(1) Sec. 36 (liability of the state) shall take effect July 1, 2011;~~

~~(2) Secs. 2(c) (BGS, FY 2013), 3(a)(2) (maps, FY 2013), 4(d) and (e) (human services, FY 2013), 5(b) (judiciary, FY 2013), 6(b) (BGS for commerce and community development, FY 2013), 6(d) (commerce and community development, FY 2013), 7(b) (building communities grants, FY 2013), 8(b) (education, FY 2013), 10(b) (University of Vermont, FY 2013), 11(b) (Vermont State Colleges, FY 2013), 12(b) (natural resources, FY 2013), 13(b) (military, FY 2013), 14(b) and (d) (public safety, FY 2013), 16(b) (agriculture, FY 2013), 17(b) (Vermont Public Television, FY 2013), 18(b) (rural fire protection, FY 2013), 20(b) (Vermont Center for Crime Victim Services, FY 2013), 21 (department of information and innovation), and 23(b) (Vermont Interactive Television, FY 2013) shall take effect on June 1, 2012.~~

Sec. 43. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Emmons of Springfield moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: In Sec. 2, amending Sec. 1 of No 40 of the Acts of 2011, in subdivision (b)(3), by striking "\$87,952,312" and inserting in lieu thereof "\$87,712,632"

Second: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, by adding subdivision (b)(14) to read:

(14) Newport, Northern State Correctional Facility,
maintenance shop: ~~350,000~~ 110,320

* * *

Third: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (c)(8), house committee rooms, by striking “380,960” and inserting in lieu thereof “430,960”

Fourth: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (c)(9)(A), by striking “11,975,000” and inserting in lieu thereof “12,000,000”

Fifth: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (c)(9)(B)(i), by striking “4,975,000” and inserting in lieu thereof “5,000,000”

Sixth: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (f)(1)(B), by inserting “coordinated services delivered;” following “standards;”

Seventh: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (f)(4)(A), by inserting “Stanley,” following “condition;” and by striking subdivision (f)(4)(D) in its entirety

Eighth: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in the FY 2012 and FY 2013 totals at the end of the section, by striking “\$26,178,802” and inserting in lieu thereof “\$25,939,122” and by striking “\$29,264,450” and inserting in lieu thereof “\$29,364,450” and by striking “\$55,443,252” and inserting in lieu thereof “\$55,303,572”

Ninth: In Sec. 4, amending Sec. 4 of No. 40 of the Acts of 2011, in subdivision (e)(2), by striking “and 10 V.S.A. chapter nine”

Tenth: By striking Sec. 6a, amending Sec. 8 of No. 40 of the Acts of 2011, reducing state aid for school construction, in its entirety and inserting in lieu thereof “[Deleted.]”

Eleventh: In Sec. 7a, adding a subsection (d) to Sec. 11 of No. 40 of the Act of 2011, by striking (d) and inserting in lieu thereof the following: “(d) If funds are allocated in any Acts of the 2011 Adj. Sess. (2012) other than an act relating to capital construction and state bonding budget adjustment for a new Community College of Vermont facility in Brattleboro and those funds are insufficient for the full cost of construction of the new facility, to the extent the \$153,160,000 of general obligation bonds authorized by Sec. 25 of this act can be reduced by the use of bond premiums, up to \$2,000,000 of the”

authorized amount that is no longer required to fund appropriations of this act as amended by capital budget adjustment shall be used to offset part of the construction cost. It is the intent of the general assembly that in the next biennium, any bond premium received shall be used to reduce state aid for school construction debt and shall be in addition to any regular capital appropriation for this purpose."

Twelfth: In Sec. 8, amending Sec. 12 of No. 40 of the Acts of 2011, in subdivision (b)(1)(A), by striking "1,480,720" and inserting in lieu thereof "1,500,400" and in subdivision (b)(5)(E), by striking the "(E)" and inserting in lieu thereof "(6) the department of forest, parks and recreation"

Thirteenth: In Sec. 8, amending Sec. 12 of No. 40 of the Acts of 2011, in the FY 2013 and Total Appropriation totals at the end of the section, by striking "\$10,922,460" and inserting in lieu thereof "\$10,942,140" and by striking "\$24,444,173" and inserting in lieu thereof "\$24,463,853"

Fourteenth: By striking Sec. 12a, amending Sec. 21 of No. 40 of the Acts of 2011, Information and Innovation, in its entirety and inserting in lieu thereof "[Deleted.]" and by striking Sec. 12b, amending Sec. 23 of No. 40 of the Acts of 2011, Vermont Interactive Television, in its entirety and inserting in lieu thereof "[Deleted.]"

Fifteenth: In Sec. 13, amending Sec. 24 of No. 40 of the Acts of 2011, in subdivision (42), in the sum, by underlining the "1"

Sixteenth: In Sec. 13, amending Sec. 24 of No. 40 of the Acts of 2011, in subdivision (58), by striking "Session" and inserting in lieu thereof "Sess."

Seventeenth: In Sec. 14, amending Sec. 26 of No. 40 of the Acts of 2011, in subsection (a), in the second sentence, by striking "\$81,0000" and inserting in lieu thereof "\$81,000" and by inserting "for other purposes" following "department"

Eighteenth: By striking Sec. 15a, amending 29 V.S.A. § 152, duties of the commissioner, in its entirety and inserting in lieu thereof "[Deleted.]"

Nineteenth: By striking Sec. 21, amending 29 V.S.A. § 165, in its entirety and inserting in lieu thereof "[Deleted.]"

Twentieth: By striking Sec. 22 in its entirety and inserting in lieu thereof the following:

Sec. 22. 29 V.S.A. § 44 is amended to read:

§ 44. FUNDS TRANSFER FOR ART

* * *

(b) Of the funds transferred under subsection (a) of this section, ~~\$7,500.00~~ \$5,000.00 shall be available for use by the council for the expenses of administering this chapter.

* * *

Twenty-first: In Sec. 26, Parking in the Capitol Complex, in subsection (a), at the end of the first sentence, following the word “program,” by inserting “subject to the collective bargaining rights of executive and judiciary employees. The program may include a pilot program designed to encourage employees of the executive, judiciary, and legislative branches of government working in Montpelier to use alternative means of transportation”

Twenty-second: In Sec. 26a, Civil War Monuments Study, in the second sentence, by striking “its” and inserting in lieu thereof “the”

Twenty-third: In Sec. 27a, adding 24 V.S.A. § 5607, in subsection (a), by deleting “to regional economic development corporations” and, in the last sentence of subsection (a), before the period by inserting “and shall be coordinated with the efforts described in chapter 76a of this title” before the period

Twenty-fourth: In Sec. 27a, adding 24 V.S.A. § 5607, in subsection (b), by striking “secretary of administration” and inserting in lieu thereof “commissioner of economic, housing and community affairs”

Twenty-fifth: In Sec. 28d, amending 6 V.S.A. § 4828, by striking subsection (d) in its entirety and insert in lieu thereof “[Repealed.]

Twenty-sixth: In Sec. 37a, Sustainable Prisons, in the first sentence, by striking “and to provide educational and green job training to inmates” and by striking the second sentence in its entirety and inserting a new second sentence to read:

“On or before January 15, 2013, the commissioners of buildings and general services and of corrections shall report on the feasibility of providing educational and green jobs training as part of this effort.”

Which was agreed to.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

S. 189

Senate bill, entitled

An act relating to expanding confidentiality of cases accepted by the court diversion project;

H. 464

House bill, entitled

An act relating to a moratorium on hydraulic fracturing wells for natural gas and oil production

H. 785

House bill, entitled

An act relating to capital construction and state bonding budget adjustment

Recess

At twelve o'clock noon, the Speaker declared a recess until two o'clock and thirty minutes in the afternoon.

At two o'clock and forty minutes in the afternoon, the Speaker called the House to order.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 200

Rep. Copeland-Hanzas of Bradford, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to the reporting requirements of health insurers

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. 18 V.S.A. § 9414a is added to read:

§ 9414a. ANNUAL REPORTING BY HEALTH INSURERS

(a) Health insurers with a minimum of 5,000 Vermont lives covered at the end of the preceding year or who offer insurance through the Vermont health benefit exchange pursuant to 33 V.S.A. chapter 18, subchapter 1 shall annually report the following information to the commissioner of financial regulation, in plain language, as an addendum to the health insurer's annual statement:

(1) the health insurer's state of domicile and the total number of states in which the insurer operates;

(2) the total number of Vermont lives covered by the health insurer;

(3) the total number of claims submitted to the health insurer;

(4) the total number of claims denied by the health insurer;

(5) the total number of denials of service by the health insurer at the preauthorization level, including:

(A) the total number of denials of service at the preauthorization level appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

(B) the total number of denials of service at the preauthorization level appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

(C) the total number of denials of service at the preauthorization level for which external review was sought and, of those, the total number overturned;

(6) the total number of adverse benefit determinations made by the health insurer, including:

(A) the total number of adverse benefit determinations appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

(B) the total number of adverse benefit determinations appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

(C) the total number of adverse benefit determinations for which external review was sought and, of those, the total number overturned;

(7) the total number of claims denied by the health insurer because the service was experimental, investigational, or an off-label use of a drug, was not medically necessary, involved access to a provider that is inconsistent with the limitations imposed by the plan, or was subject to a preexisting condition exclusion;

(8) the total number of claims denied by the health insurer as duplicate claims, as coding errors, or for services or providers not covered;

(9)(A) the names, positions, and salaries of all corporate officers and board members during the preceding year;

(B) the bonuses and compensatory benefits of all corporate officers and board members during the preceding year;

(10) the health insurer's marketing and advertising expenses during the preceding year;

(11) the health insurer's federal and Vermont-specific lobbying expenses during the preceding year;

(12) the amount and recipient of each political contribution made by the health insurer during the preceding year;

(13) the amount and recipient of dues paid during the preceding year by the health insurer to trade groups that engage in lobbying efforts or that make political contributions;

(14) the health insurer's legal expenses related to claims or service denials during the preceding year; and

(15) the amount and recipient of charitable contributions made by the health insurer during the preceding year.

(b) Health insurers may indicate the extent of overlap or duplication in reporting the information described in subsection (a) of this section.

(c) The department of financial regulation shall create a standardized form using terms with uniform, industry-standard meanings for the purpose of collecting the information described in subsection (a) of this section, and each health insurer shall use the standardized form for reporting the required information as an addendum to its annual statement. To the extent possible, health insurers shall report information specific to Vermont on the standardized form and shall indicate on the form where the reported information is not specific to Vermont.

(d)(1) The department of financial regulation shall post on its website the standardized form completed by each health insurer pursuant to this section.

(2) The department of Vermont health access shall post on the Vermont health benefit exchange established pursuant to 33 V.S.A. chapter 18, subchapter 1 an electronic link to the standardized forms posted by the department of financial regulation pursuant to subdivision (1) of this subsection.

(e) The commissioner of financial regulation may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this act.

Sec. 2. INTERIM WORKING GROUP ON INSURANCE FILINGS

(a) The department of financial regulation shall convene a working group on consumer-oriented insurance filings for the purpose of assessing and

making recommendations to improve the accessibility and comprehensibility of filings required of health insurers by this act.

(b) The working group shall be composed of the following members:

(1) the commissioner of financial regulation or designee, who shall serve as facilitator;

(2) the state health care ombudsman;

(3) a representative of a consumer advocacy group, appointed by the commissioner of financial regulation; and

(4) two individuals representing the interests of Vermont's insurance industry, appointed by the commissioner of financial regulation.

(c)(1) The working group established by this section shall study the content and availability of filings required of health insurers by this act, including:

(A) the type of information currently disclosed, the format of such disclosures, and the accessibility of reported information to consumers; and

(B) the presentation of the reported information with regard to clarity and ease of consumer comprehension.

(2) The working group shall make recommendations for improving the format, content, accessibility, and delivery of filings required of health insurers by this act in a manner that enhances consumer comprehension and empowers informed decision-making.

(3) The working group shall submit a detailed report of its findings and recommendations to the senate committee on health and welfare and the house committee on health care on or before January 15, 2014. Where appropriate, the working group's recommendations shall include specific suggestions for administrative and legislative action, including additional information that should be reported by health insurers and how "lives covered," as used in 18 V.S.A. § 9414a(a)(2), should be defined.

(4) For the purposes of its study of these issues, the working group shall have administrative support from the department of financial regulation.

(d) The working group on consumer-oriented insurance filings shall cease to exist on January 31, 2014.

Sec. 3. 18 V.S.A. § 9421 is redesignated to read:

§ 9421. PHARMACY BENEFIT MANAGEMENT; REGISTRATION;

INSURER AUDIT OF PHARMACY BENEFIT MANAGER

ACTIVITIES

Sec. 4. 18 V.S.A. chapter 79 is added to read:

CHAPTER 79. PHARMACY AUDITS§ 3801. DEFINITIONS

As used in this subchapter:

(1)(A) “Health insurer” shall have the same meaning as in section 9402 of this title and shall include:

(i) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(ii) an employer, a labor union, or another group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont; and

(iii) except as otherwise provided in section 3805 of this title, the state of Vermont and any agent or instrumentality of the state that offers, administers, or provides financial support to state government.

(B) The term “health insurer” shall not include Medicaid, the Vermont health access plan, Vermont Rx, or any other Vermont public health care assistance program.

(2) “Health plan” means a health benefit plan offered, administered, or issued by a health insurer doing business in Vermont.

(3) “Pharmacy” means any individual or entity licensed or registered under 26 V.S.A. chapter 36.

(4) “Pharmacy benefit management” means an arrangement for the procurement of prescription drugs at a negotiated rate for dispensation within this state to beneficiaries, the administration or management of prescription drug benefits provided by a health plan for the benefit of beneficiaries, or any of the following services provided with regard to the administration of pharmacy benefits:

(A) mail service pharmacy;

(B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;

(C) clinical formulary development and management services;

(D) rebate contracting and administration;

(E) certain patient compliance, therapeutic intervention, and generic substitution programs; and

(F) disease or chronic care management programs.

(5) "Pharmacy benefit manager" means an entity that performs pharmacy benefit management. The term includes a person or entity in a contractual or employment relationship with an entity performing pharmacy benefit management for a health plan.

(6) "Responsible party" means the entity, including a health insurer or pharmacy benefit manager, responsible for payment of claims for health care services other than:

(A) the individual to whom the health care services were rendered;

(B) that individual's guardian or legal representative; or

(C) the agency of human services, its agents, and contractors.

§ 3802. PHARMACY RIGHTS DURING AN AUDIT

Notwithstanding any provision of law to the contrary, whenever a health insurer, a third-party payer, or an entity representing a responsible party conducts an audit of the records of a pharmacy, the pharmacy shall have a right to all of the following:

(1) To have an audit involving clinical or professional judgment be conducted by a pharmacist licensed to practice pharmacy in one or more states, who has at least a familiarity with Vermont pharmacy statutes and rules and who is employed by or working with an auditing entity.

(2) If an audit is to be conducted on-site at a pharmacy, the entity conducting the audit:

(A) shall give the pharmacy at least 14 days' advance written notice of the audit and the specific prescriptions to be included in the audit; and

(B) may not audit a pharmacy on Mondays or on weeks containing a federal holiday, unless the pharmacy agrees to alternative timing for the audit.

(3) Not to have an entity audit claims that:

(A) were submitted to the pharmacy benefit manager more than 18 months prior to the date of the audit, unless:

(i) required by federal law; or

(ii) the originating prescription was dated within the 24-month period preceding the date of the audit; or

(B) exceed 200 selected prescription claims.

(4) To have auditors enter the prescription department only when accompanied by or authorized by a member of the pharmacy staff, and not to have auditors disrupt the provision of services to the pharmacy's customers.

(5) Not to have clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors, on a required document or record deemed fraudulent in the absence of any financial harm or other evidence; provided that this subdivision shall not be construed to prohibit recoupment of actual fraudulent payments.

(6) If required under the terms of the contract, to have the auditing entity provide to the pharmacy, upon request, all records related to the audit in an electronic or digital media format.

(7) In order to validate a pharmacy record with respect to a prescription or refill, to have the properly documented records of a hospital or of any person authorized by law to prescribe medication transmitted by any means of communication.

(8) To use any prescription that meets the requirements to be a legal prescription under Vermont law, including prescriber notations such as "as directed" and "as needed" which require the professional judgment of the pharmacist to determine that the dose dispensed is within normal guidelines, to validate claims submitted for reimbursement for dispensing of original and refill prescriptions, or changes made to prescriptions.

(9) To dispense and receive reimbursement for the full quantity of the smallest commonly available commercially packaged product, including eye drops, insulin, and topical products, that contains the total amount required to be dispensed to meet the days' supply ordered by the prescriber, even if the full quantity of the commercially prepared package exceeds the maximum days' supply allowed.

(10) To determine the days' supply using the highest daily total dose that may be utilized by the patient pursuant to the prescriber's directions, and for prescriptions with a titrated dose schedule, to use the schedule to determine the days' supply.

(11) To be subject to recoupment only following the correction of a claim and to have recoupment limited to amounts paid in excess of amounts payable under the corrected claim.

(12) Not to have a demand for recoupment, repayment, or offset against future reimbursement for overpayment of a claim for dispensing of an original

or refill prescription include the dispensing fee, unless the prescription that is the subject of the claim was not actual dispensed, was not valid, was fraudulent, or was outside the provisions of the contract; provided that this subdivision shall not apply if a pharmacy is required to correct an error in a claim submitted in good faith.

(13) Unless otherwise agreed to by contract, not to have an audit finding or demand for recoupment, repayment, or offset against future reimbursement made for any claim for dispensing of an original or refill prescription due to information missing from a prescription or to information not placed in a particular location when the information or location is not required or specified by state or federal law. The pharmacy shall be allowed 30 days to document and correct the missing information.

(14) In the event the actual quantity dispensed on a valid prescription for a covered beneficiary exceeded the allowable maximum days' supply of the product as defined in the contract, to have the amount to be recouped, repaid, or offset against future reimbursement limited to an amount calculated based on the quantity of the product dispensed found to be in excess of the allowed days' supply quantity and using the cost of the product as reflected on the original claim.

(15) Not to have the accounting practice of extrapolation used in calculating any recoupment or penalty, unless otherwise required by federal law or by federal health plans.

(16) Except for cases of federal Food and Drug Administration regulation or drug manufacturer safety programs, to be free of recoupments based on either:

(A) documentation requirements in addition to or in excess of state board of pharmacy documentation creation or maintenance requirements; or

(B) a requirement that a pharmacy or pharmacist perform a professional duty in addition to or in excess of state board of pharmacy professional duty requirements.

(17) Except for Medicare claims, to be subject to reversals of approval for drug, prescriber, or patient eligibility upon adjudication of a claim only in cases in which the pharmacy obtained the adjudication by fraud or misrepresentation of claim elements.

(18) To be audited under the same standards and parameters as other similarly situated pharmacies audited by the same entity.

(19) To have the preliminary audit report delivered to the pharmacy within 60 days following the conclusion of the audit.

(20) To have at least 30 days following receipt of the preliminary audit report to produce documentation to address any discrepancy found during the audit.

(21) To have a final audit report delivered to the pharmacy within 120 days after the end of the appeals period, as required by section 3803 of this title.

(22) Except for audits initiated to address an identified problem, to be subject to no more than one audit per calendar year, unless fraud or misrepresentation is reasonably suspected.

(23) Not to have audit information from an audit conducted by one auditing entity shared with or utilized by another auditing entity, except as required by state or federal law.

§ 3803. APPEALS

(a) An entity that audits a pharmacy shall provide the pharmacy with a preliminary audit report, which shall be delivered to the pharmacy or to its corporate office of record within 60 days following completion of the audit.

(b) A pharmacy shall have 30 days following receipt of the preliminary audit report in which to respond to questions, provide additional documentation, and comment on and clarify audit findings. Receipt of the report shall be based on the date postmarked on the envelope or the date of a computer transmission, if transferred electronically.

(c) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow the pharmacy to resubmit the claim using any commercially reasonable method, including U.S. mail, facsimile, or electronic claims submission, as long as the period of time during which a claim may be resubmitted has not expired.

(d) Within 120 days after the completion of the appeals process established by this section, a final audit report shall be delivered to the pharmacy or to its corporate office of record. The final audit report shall include a disclosure of any funds recovered by the entity that conducted the audit.

(e) An entity that audits a pharmacy shall have in place a written appeals process by which a pharmacy may appeal the preliminary audit report and the final audit report, and shall provide the pharmacy with notice of the appeals process.

(f) A pharmacy shall be entitled to request a mediator agreed upon by both parties to resolve any disagreements; such request shall not be deemed to waive any existing rights of appeal.

§ 3804. PHARMACY AUDIT RECOUPMENTS

(a) Recoupment of any disputed funds shall occur only after the final internal disposition of an audit, including the appeals process set forth in section 3803 of this title.

(b) An entity conducting an audit may not:

(1) Include dispensing fees in calculations of overpayments unless the prescription is determined to have been dispensed in error.

(2) Recoup funds for clerical or recordkeeping errors, including typographical errors, scriveners' errors, and computer errors on a required document or record unless the error resulted in overpayment or the entity conducting the audit has evidence that the pharmacy's actions reasonably indicate fraud or other intentional or willful misrepresentation.

(3) Collect any funds, charge-backs, or penalties until the audit and all appeals are final, unless the entity conducting the audit is alleging fraud or other intentional or willful misrepresentation.

(4) Recoup an amount in excess of the actual overpayment.

(c) Recoupment on an audit shall be refunded to the responsible party as contractually agreed upon by the parties.

(d) The entity conducting the audit may charge or assess the responsible party, directly or indirectly, based on amounts recouped if both of the following conditions are met:

(1) the responsible party and the entity conducting the audit have entered into a contract that explicitly states the percentage charge or assessment to the responsible party; and

(2) a commission or other payment to an agent or employee of the entity conducting the audit is not based, directly or indirectly, on amounts recouped.

§ 3805. APPLICABILITY

The provisions of this chapter shall not apply to any audit or investigation undertaken by any state agency, including the office of the attorney general or the agency of human services, to a fiscal agent of the state, or to any audit, review, or investigation that involves alleged Medicaid fraud, Medicaid waste, Medicaid abuse, insurance fraud, or criminal fraud or misrepresentation.

Sec. 5. 24 V.S.A. § 2689 is added to read:

§ 2689. REIMBURSEMENT FOR AMBULANCE SERVICE PROVIDERS

(a) When an ambulance service provides emergency medical treatment to a person who is insured by a policy, plan, or contract that provides benefits for emergency medical treatment, the insurer shall reimburse the ambulance service directly, subject to the terms and conditions of the policy, plan, or contract.

(b) Nothing in this section shall be construed to interfere with coordination of benefits or to require a health insurer to provide coverage for services not otherwise covered under the insured's policy, plan, or contract.

(c) Nothing in this section shall preclude an insurer from negotiating with and subsequently entering into a contract with a nonparticipating ambulance service to establish rates of reimbursement for emergency medical treatment.

Sec. 6. EFFECTIVE DATES

(a) Secs. 1 and 2 of this act and this section shall take effect on July 1, 2012, and reporting by health insurers shall begin with the annual statement due under Title 8 for calendar year 2012.

(b) Secs. 3 and 4 of this act shall take effect on July 1, 2012 and shall apply to contracts entered into or renewed on and after that date.

(c) Sec. 5 of this act shall take effect on July 1, 2012.

and that after passage the title of the bill be amended to read: "An act relating to pharmacy audits, reimbursement for ambulance services, and the reporting requirements of health insurers"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committee on Health Care agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Fisher of Lincoln** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 135. Nays, 1.

Those who voted in the affirmative are:

Acinapura of Brandon	Bissonnette of Winooski	Browning of Arlington
Ancel of Calais	Bohi of Hartford	Burke of Brattleboro
Andrews of Rutland City	Botzow of Pownal	Buxton of Tunbridge
Atkins of Winooski	Bouchard of Colchester	Campion of Bennington
Bartholomew of Hartland	Branagan of Georgia	Canfield of Fair Haven
Batchelor of Derby	Brennan of Colchester	Cheney of Norwich

Christie of Hartford	Hubert of Milton	Nuovo of Middlebury
Clarkson of Woodstock	Jerman of Essex	O'Sullivan of Burlington
Condon of Colchester	Jewett of Ripton	Partridge of Windham
Conquest of Newbury	Johnson of South Hero	Pearce of Richford
Consejo of Sheldon	Johnson of Canaan	Pearson of Burlington
Copeland-Hanzas of Bradford	Keenan of St. Albans City	Peaslee of Guildhall
Corcoran of Bennington	Kitzmiller of Montpelier	Peltz of Woodbury
Courcelle of Rutland City	Klein of East Montpelier	Perley of Enosburgh
Crawford of Burke	Koch of Barre Town	Poirier of Barre City
Dakin of Chester	Krebs of South Hero	Potter of Clarendon
Davis of Washington	Krowinski of Burlington	Pugh of South Burlington
Deen of Westminster	Kupersmith of South Burlington	Ralston of Middlebury
Degree of St. Albans City	Lanpher of Vergennes	Ram of Burlington
Devereux of Mount Holly	Larocque of Barnet	Reis of St. Johnsbury
Dickinson of St. Albans Town	Lawrence of Lyndon	Russell of Rutland City
Donaghy of Poultney	Lenes of Shelburne	Savage of Swanton
Donahue of Northfield	Leriche of Hardwick	Scheuermann of Stowe
Donovan of Burlington	Lewis of Berlin	Shand of Weathersfield
Eckhardt of Chittenden	Lewis of Derby	Sharpe of Bristol
Edwards of Brattleboro	Lippert of Hinesburg	Shaw of Pittsford
Ellis of Waterbury	Lorber of Burlington	Smith of New Haven
Emmons of Springfield	Macaig of Williston	Spengler of Colchester
Evans of Essex	Malcolm of Pawlet	Stevens of Waterbury
Fagan of Rutland City	Manwaring of Wilmington	Stevens of Shoreham
Fisher of Lincoln	Marcotte of Coventry	Strong of Albany
Frank of Underhill	Marek of Newfane	Stuart of Brattleboro
French of Randolph	Martin of Springfield	Sweaney of Windsor
Grad of Moretown	Martin of Wolcott	Taylor of Barre City
Greshin of Warren	Masland of Thetford	Till of Jericho
Haas of Rochester	McAllister of Highgate	Townsend of Randolph
Head of South Burlington	McCullough of Williston	Trieber of Rockingham
Heath of Westford	McFaun of Barre Town	Turner of Milton
Hebert of Vernon	McNeil of Rutland Town	Waite-Simpson of Essex
Helm of Fair Haven	Miller of Shaftsbury	Webb of Shelburne
Higley of Lowell	Mook of Bennington	Wilson of Manchester
Hooper of Montpelier	Moran of Wardsboro	Winters of Williamstown
Howard of Cambridge	Mrowicki of Putney	Wizowaty of Burlington
Howrigan of Fairfield	Munger of South Burlington	Yantachka of Charlotte
	Myers of Essex	Young of Glover
		Zagar of Barnard

Those who voted in the negative are:

Burditt of West Rutland *

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Gilbert of Fairfax	Morrissey of Bennington
Clark of Vergennes	Kilmartin of Newport City	O'Brien of Richmond
French of Shrewsbury	Komline of Dorset	Olsen of Jamaica

South of St. Johnsbury
Toll of Danville

Woodward of Johnson
Wright of Burlington

Rep. Burditt of West Rutland explained his vote as follows:

“Mr. Speaker:

The names, positions, salaries, bonuses, and compensatory benefits are none of our business. What industry is next!”

Senate Proposal of Amendment Concurred in

H. 550

The Senate proposed to the House to amend House bill, entitled

An act relating to the Vermont administrative procedure act

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

Sec. 1. 3 V.S.A. § 844 is amended to read:

§ 844. EMERGENCY RULES

* * *

(d) Emergency rules adopted under this section shall include:

(1) as much of the information required for the filing of a proposed rule as is practicable under the circumstances; and

(2) a signed and dated statement by the adopting authority explaining the nature of the imminent peril to the public health, safety, or welfare and approving of the contents of the rules.

(e)(1) On a majority vote of the entire committee, the committee may object under this subsection if an emergency rule is:

~~(1)~~(A) beyond the authority of the agency;

~~(2)~~(B) contrary to the intent of the legislature;

~~(3)~~(C) arbitrary; or

~~(4)~~(D) not necessitated by an imminent peril to public health, safety, or welfare sufficient to justify adoption of an emergency rule.

(2) When objection is made under this subsection, on majority vote of the entire committee, the committee may file the objection in certified form with the secretary of state. The objection shall contain a concise statement of the committee’s reasons for its action. The secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy

to the agency. After a committee objection is filed with the secretary under this subsection, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the legislature, is not arbitrary, and is justified by an imminent peril to the public health, safety, or welfare. If the agency fails to meet its burden of proof, the court shall declare the whole or portion of the rule objected to invalid. The failure of the committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

(3) When the committee makes an objection to an emergency rule under this subsection, the agency may withdraw the rule to which an objection was made. Prior to withdrawal, the agency shall give notice to the committee of its intent to withdraw the rule. A rule shall be withdrawn upon the filing of a notice of withdrawal with the secretary of state and the committee. If the emergency rule amended an existing rule, upon withdrawal of the emergency rule, the existing rule shall revert to its original form, as though the emergency rule had never been adopted.

Sec. 2. 3. V.S.A. § 817 is amended to read:

§ 817 LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

* * *

(d) In addition to its powers under section 842 of this title concerning rules, the committee may, in similar manner, conduct public hearings, object, and file objections concerning existing rules. A rule reviewed under this subsection shall remain in effect until amended or repealed.

(e) At any time following its consideration of a final proposal under section 841 of this title, the committee, by majority vote of the entire committee, may request that any standing committees of the general assembly review the issues or questions presented therein which are outside the jurisdiction of the committee but are within the jurisdiction of the standing committees. On receiving a request for review under this subsection, a standing committee may at its discretion review the issues or questions and act on them. The committee's request for review shall not affect the review or review period of a final proposal.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in**H. 484**

The Senate proposed to the House to amend House bill, entitled

An act relating to amendment to the Windham solid waste district charter

First: In Sec. 2, 24 App. V.S.A. chapter 417, in § 1, by striking out the following: “The member towns of the District are those identified on Attachment A”

Second: In Sec. 2, 24 App. V.S.A. chapter 417, in § 43, by striking out the word “CHARGE” in the section title and inserting in lieu thereof the word CHARGES

Third: In Sec. 2, 24 App. V.S.A. chapter 417, in § 62, in subdivision (4), by striking out the words “but not limited to” where it appears in the first sentence

Which proposal of amendment was considered and concurred in.

Recess

At three o'clock and fifteen minutes in the afternoon, the Speaker declared a recess until five o'clock in the afternoon.

At five o'clock in the afternoon, the Speaker called the House to order.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra MacLean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the twentieth day of April, 2012, he approved and signed bills originating in the House of the following title:

H. 21 An act relating to the mutual benefit enterprise act

H. 565 An act relating to regulating licensed lenders and mortgage loan originators

Adjournment

At five o'clock and six minutes in the afternoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

Wednesday, April 25, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Poet, Geof Hewitt, from Calais, VT.

**Rules Suspended; Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed****H. 496**

On motion of **Rep. Savage of Milton**, the rules were suspended and House bill, entitled

An act relating to preserving Vermont's working landscape

Appearing on the Calendar for notice, was taken up for immediate consideration.

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

Sec. 1. 6 V.S.A. § 2966 (Vermont agricultural development board) is repealed in its entirety and new §§ 2966 is added to read:

§ 2966. ESTABLISHMENT OF THE VERMONT WORKING LANDS
ENTERPRISE BOARD

(a) Board Established. The Vermont working lands enterprise board is hereby established as the successor in interest to the Vermont agricultural development board.

(b) Goals. The Vermont working lands enterprise board shall perform its duties pursuant to sections 2967 and 2968 of this title:

(1) to promote job creation and the economic viability, growth, and sustainability of the working landscape;

(2) to attract a new generation of entrepreneurs to agriculture and forestry, food and forest systems, and value-added production as a foundation for rural job creation and working lands conservation;

(3) to increase the value and sales of the products of the working landscape by means which reward sound farm and forest management,

including appropriate increases in the proportion of value-added farm and forest products relative to raw material exports; and

(4) to build Vermont's reputation as the national leader in food systems development, environmental quality, land stewardship, access to outdoor recreation, and working lands entrepreneurship.

(c) Board Composition. The board shall be composed of the following 24 members:

(1) six members appointed by the governor:

(A) a person with expertise in rural economic development issues;

(B) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture or forestry;

(C) a person familiar with the agricultural or forest tourism industry;

(D) a member of the Northeast Organic Farming Association of Vermont;

(E) a member of the Vermont Forest Products Association; and

(F) a member of the Vermont Wood Manufacturers Association;

(2) six members appointed by the speaker of the house of representatives:

(A) a person who produces an agricultural commodity other than dairy products;

(B) a person who creates a value-added product using ingredients substantially produced on Vermont farms or from Vermont forests;

(C) a person with expertise in sales and marketing;

(D) a person representing the feed, seed, fertilizer, or equipment enterprises;

(E) a member of the Vermont Woodlands Association; and

(F) a member of the Vermont Forest Stewardship Committee;

(3) six members appointed by the committee on committees of the senate:

(A) a representative of Vermont's dairy industry who is also a dairy farmer;

(B) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;

(C) a representative from a Vermont agricultural or forestry advocacy organization;

(D) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture or forestry;

(E) a member of the Green Mountain Division, Society of American Foresters; and

(F) a member of the Forest Guild who is a resident of Vermont.

(4) the following three members from the executive branch:

(A) the secretary of agriculture, food and markets;

(B) the secretary of commerce and community development; and

(C) the commissioner of forest, parks and recreation; and

(5) the following three members who shall serve as ex officio, non-voting members:

(A) the manager of the Vermont economic development authority;

(B) the executive director of the Vermont sustainable jobs fund; and

(C) the executive director of the Vermont housing conservation board.

(d) Governance.

(1) Eleven voting members of the board shall constitute a quorum, and an action of the board shall be taken by a majority of those members present and voting at a meeting of the members at which a quorum is present.

(2)(A) The chair of the board shall be elected by the board from its membership at the first meeting. The chair shall serve for the duration of his or her member term, until his or her earlier resignation, or until his or her unanimous removal by the governor, the speaker of the house, and the president pro tempore of the senate. A chair may be reappointed, provided that no individual may serve more than two consecutive three-year terms as chair.

(3) Each member of the board shall serve a term of three years, or until his or her earlier resignation. A member shall not serve more than two consecutive three-year terms. Any vacancy occurring among the members shall be filled by the respective appointing authority, and shall be filled for the balance of the unexpired term.

(e) Compensation. Members who are not state employees or whose membership is not supported by their employer or association may receive

reimbursement for actual and necessary expenses incurred in the performance of their duties pursuant to 32 V.S.A. § 1010.

Sec. 2. 6 V.S.A. § 2967 is added to read:

§ 2967. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) The Vermont working lands enterprise board shall have the authority to promote job creation and the economic viability, growth, and sustainability of the working landscape through three mechanisms:

(1) Direct grants and investments in agricultural and forestry enterprises;

(2) Services and assistance to agricultural and forestry enterprises, both through direct coordination with public and private partners, and through performance contracts with one or more persons, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) local, statewide, regional, national, or international marketing of the Vermont working landscape, its entrepreneurs and sectors, and the public and private programs and partners supporting the working landscape;

(D) organizational, regulatory, and development assistance; and

(E) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies.

(3) Direct grants and investments in food and forest systems infrastructure.

(b) The board shall have the additional authority:

(1) to pursue, receive, and accept any type of funding from public or private funding sources for the performance of its work;

(2) to use the services and staff of the agency of agriculture, food and markets to assist in the performance of the board's duties, with the concurrence of the secretary of agriculture, food and markets;

(3) to contract for support, technical, or other professional services necessary to complete its work; and

(4) to advise and make recommendations to the secretary of agriculture, food and markets and to the commissioner of forests, parks and recreation on

the adoption and amendment of laws, regulations, and governmental policies that affect agriculture and forestry.

Sec. 3. 6 V.S.A. § 2968 is added to read:

§ 2968. VERMONT WORKING LANDS ENTERPRISE FUND

There is created a special fund in the state treasury to be known as the “Vermont working lands enterprise fund.” Notwithstanding any contrary provisions of 32 V.S.A. Chapter 7, subchapter 5:

(1) the fund shall be administered, and the monies of the funds shall be expended, by the Vermont working lands enterprise board created in section 2966 of this title;

(2) the fund shall be composed of moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public, approved by the board, and unexpended balances and any earnings shall remain in the fund from year to year; and

(3) the board shall make expenditures from the fund consistent with the duties and authority of the board to promote job creation and the economic viability, growth, and sustainability of the working landscape consistent with section 2967 of this title.

Sec. 4. TRANSITION

Notwithstanding any provision of Sec. 1. of this act to the contrary, upon the effective date of this act, each member of the Vermont agricultural development board shall become a member of the Vermont working lands enterprise board and shall serve the remainder of his or her current term, upon the expiration of which a member may be reappointed or replaced as provided in 6 V.S.A. § 2966, as amended by this act.

Sec. 5. 10 V.S.A. chapter 15 is amended to read:

CHAPTER 15. VERMONT HOUSING AND CONSERVATION
TRUST FUND

* * *

§ 302. POLICY, FINDINGS, AND PURPOSE

(a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont’s agricultural ~~land~~ and forest land, historic properties, important natural areas, and recreational lands are of primary importance to the economic vitality and quality of life of the state.

(b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, Vermont should encourage and assist in creating affordable housing and in preserving the state's agricultural ~~land~~ and forest land, historic properties, important natural areas, and recreational lands.

(c) It is the purpose of this chapter to create the Vermont housing and conservation trust fund to be administered by the Vermont housing and conservation board to further the policies established by subsections (a) and (b) of this section.

§ 303. DEFINITIONS

As used in this chapter:

(1) "Board" means the Vermont housing and conservation board established by this chapter.

(2) "Fund" means the Vermont housing and conservation trust fund established by this chapter.

(3) "Eligible activity" means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:

(A) the preservation, rehabilitation or development of residential dwelling units which are affordable to lower income Vermonters;

(B) the retention of agricultural land for agricultural use, and of forest land for forestry use;

(C) the protection of important wildlife habitat and important natural areas;

(D) the preservation of historic properties or resources;

(E) the protection of areas suited for outdoor public recreational activity;

(F) the development of capacity on the part of an eligible applicant to engage in an eligible activity.

* * *

§ 311. CREATION OF THE VERMONT HOUSING AND CONSERVATION BOARD

(a) There is created and established a body politic and corporate to be known as the "Vermont housing and conservation board" to carry out the provisions of this chapter. The board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state. The board is exempt from licensure under 8 V.S.A. chapter 73 ~~of Title 8~~.

(b) The board shall consist of the following 11 members:

- (1) The secretary of agriculture, food and markets or his or her designee.
- (2) The secretary of human services or his or her designee.
- (3) The secretary of natural resources or his or her designee.
- (4) The executive director of the Vermont housing finance agency or his or her designee.
- (5) Three public members appointed by the governor with the advice and consent of the senate, who shall be residents of the state and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural ~~land~~ and forest land, historic properties, important natural areas, or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in 32 V.S.A. § 3752(7).
- (6) One public member appointed by the speaker of the house, who shall not be a member of the general assembly at the time of appointment.
- (7) One public member appointed by the senate committee on committees, who shall not be a member of the general assembly at the time of appointment.
- (8) Two public members appointed jointly by the speaker of the house and the president pro tempore of the senate as follows:
 - (A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or board member of any of those organizations at the time of appointment.
 - (B) One member from the nonprofit conservation organizations whose activities are eligible under subdivision 303(3) of this title who shall not be an employee or member of the board of any of those organizations at the time of appointment.

* * *

§ 321. GENERAL POWERS AND DUTIES

* * *

(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the board shall seek to maximize state participation in the federal wetlands reserve program ~~in order~~ and such other programs as is appropriate to allow for increased or additional implementation of conservation practices on farmland and forestland protected or preserved under this chapter.

* * *

§ 324. STEWARDSHIP

If an activity funded by the board involves acquisition by the state of an interest in real property for the purpose of conserving and protecting agricultural ~~land~~ and or forest land, important natural areas, or recreation lands, the board, in its discretion, may make a one-time grant to the appropriate state agency or municipality. The grant shall not exceed ten percent of the current appraised value of that property interest and shall be used to support its proper management or maintenance or both.

* * *

Sec. 6. PRIORITIES FOR WORKING LANDS INVESTMENTS

In the event that sources of funding for investments are available in the agency of agriculture, food and markets, the working lands enterprise board, and the working lands enterprise fund, it is the intent of the general assembly to invest in the following priorities:

(1) funding for direct grants and investments in food and forest systems infrastructure pursuant to 6 V.S.A. § 2966(a)(3).

(2) funding for direct grants and investments in agricultural or forestry enterprises pursuant to 6 V.S.A. § 2966(a)(1).

(3) funding to provide services and assistance to agricultural and forestry enterprises pursuant to 6 V.S.A. § 2966(a)(2).

(4) funding to the agency of agriculture, food and markets for one full-time position of "Vermont working landscape development director," for support staff, and for fiscal management and operations costs.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Partridge of Windham** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Partridge of Windham

Rep. Stevens of Shoreham

Rep. Lawrence of Lyndon

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 89

Senate bill, entitled

An act relating to Medicaid for Working Persons with Disabilities

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**House Proposal of Amendment Amended; Bill Read Third Time
and Passed in Concurrence With Proposal of Amendment**

S. 200

Senate bill, entitled

An act relating to the reporting requirements of health insurers

Was taken up and pending third reading of the bill, **Rep. Copeland-Hanzas of Bradford** moved to amend the House proposal of amendment as follows:

In Sec. 5, 24 V.S.A. § 2689, in subsection (a), by inserting "health insurance" preceding "policy" each time it appears and by inserting "health" preceding "insurer"

Which was agreed to.

Pending third reading of the bill, **Reps. Wizowaty of Burlington, Burke of Brattleboro, Buxton of Tunbridge, Courcelle of Rutland City, Davis of Washington, Edwards of Brattleboro, Ellis of Waterbury, Evans of Essex,**

Hooper of Montpelier, Krowinski of Burlington, Lanpher of Vergennes, Manwaring of Wilmington, Martin of Wolcott, Miller of Shaftsbury, O'Sullivan of Burlington, Pearson of Burlington, Ram of Burlington, Stuart of Brattleboro, Taylor of Barre City, Waite-Simpson of Essex and Webb of Shelburne moved to amend the House proposal of amendment as follows:

First: By inserting before Sec. 6, EFFECTIVE DATES, the following:

Sec. 6. 8 V.S.A. § 4099d is amended to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

(a) A health insurance plan ~~or health benefit plan~~ providing maternity benefits shall also provide coverage for services rendered by ~~a midwife~~ midwives licensed pursuant to ~~26 V.S.A. chapter 85 of Title 26 or an~~ and by advanced practice registered ~~nurse~~ nurses licensed pursuant to ~~26 V.S.A. chapter 28 of Title 26 who is~~ are certified as a nurse ~~midwife~~ midwives for covered services that are within the licensed midwife's or certified nurse midwife's scope of practice ~~and, whether~~ provided in a hospital or other health care facility or at home.

(b) Coverage for services provided by a licensed midwife or certified nurse midwife shall not be subject to any greater co-payment, deductible, or coinsurance than is applicable to any other similar benefits provided by the plan.

(c) A health insurance plan may require that the maternity services be provided by a licensed midwife or certified nurse midwife under contract with the plan.

(d) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid, the Vermont health access plan, and any other public health care assistance program offered or administered by the state or by any subdivision or instrumentality of the state. The term shall not include policies or plans providing coverage for specific disease or other limited benefit coverage.

Sec. 7. INSURANCE COVERAGE FOR MIDWIFERY

(a) Notwithstanding 8 V.S.A. § 4099d(c), until July 1, 2014, for home birth services to be provided by a licensed midwife or a certified nurse midwife, a health insurance plan shall not:

(1) require that the licensed midwife or certified nurse midwife be under contract with the plan or participate in the plan's network; or

(2) offer a plan that only covers midwifery services provided by a licensed midwife or certified nurse midwife when a network provider is used.

(b) Notwithstanding 8 V.S.A. § 4099d(c), until July 1, 2014, a licensed midwife or certified nurse midwife who does not participate in a health insurance plan's network shall not be subject to or required to meet the plan's network requirements, including the requirement to maintain professional liability insurance, provided that a licensed midwife or certified nurse midwife who is not in the plan's network shall disclose in writing to each patient whether the midwife is covered by a professional liability policy and shall obtain a signed and dated acknowledgment from each such patient of such disclosure.

Sec. 8. 26 V.S.A. § 1614 is amended to read:

§ 1614. APRN RENEWAL

An APRN license renewal application shall include:

- (1) documentation of completion of the APRN practice requirement;
- (2) a current certification by a national APRN specialty certifying organization;
- (3) current practice guidelines; ~~and~~
- (4) a current collaborative provider agreement if required for transition to practice; and
- (5) for a certified nurse midwife, verification that the midwife has submitted to the database maintained by the Division of Research of the Midwives Alliance of North America data for each home birth he or she attended.

Sec. 9. 26 V.S.A. § 4187 is amended to read:

§ 4187. RENEWALS

(a)(1) Biennially, the director shall forward a renewal form to each licensed midwife. The completed form shall include verification that during the preceding two years, the licensed midwife has:

- (A) completed 20 hours of continuing education approved by the director by rule;
- (B) participated in at least four peer reviews;
- (C) submitted individual practice data;

(D) maintained current cardiopulmonary resuscitation certification for adults and newborns and for neonatal resuscitation; and

(E) filed a timely certificate of birth for each birth at which he or she was the attending midwife, as required by law; and

(F) submitted to the database maintained by the Division of Research of the Midwives Alliance of North America data for each home birth he or she attended.

(2) Upon receipt of the completed form and of the renewal fee, the director shall issue a renewal license to applicants who qualify under this section.

* * *

Sec. 10. Sec. 8 of No. 35 of the Acts of 2011 is amended to read:

Sec. 8. DEPARTMENT OF HEALTH; REPORTING REQUIREMENT

(a) The ~~department of health~~ licensed midwives appointed as advisors to the office of professional regulation pursuant to 26 V.S.A. § 4186 shall access the database maintained by the Division of Research of the Midwives Alliance of North America to obtain information relating to care provided in Vermont by midwives licensed pursuant to 26 V.S.A. chapter 85 of Title 26 and by advanced practice registered nurses licensed pursuant to 26 V.S.A. chapter 28 of Title 26 who are certified as nurse midwives. The advisor appointees shall provide the full aggregate data available from the database to the commissioner of health by February 15 of each year from 2012 through 2016, inclusive, to enable the commissioner or designee to comply with subsection (b) of this section.

(b) No later than March 15 of each year from 2012 through 2016, inclusive, the commissioner of health or designee, in collaboration with the director of the office of professional regulation, shall provide testimony to the house committee on health care and the senate committee on health and welfare regarding the activities of licensed midwives and certified nurse midwives performing home births and providing prenatal and postnatal care in a nonmedical environment during the preceding year. The testimony shall include the number of home births in Vermont, the number of hospital transports associated with home births, the treatment of high-risk patients, and other relevant data, as well as the level of compliance of the licensed midwives and certified nurse midwives with the laws and rules governing their scope of practice.

and by renumbering the original Sec. 6 to be Sec. 11

Second: In Sec. 11, EFFECTIVE DATES, subsection (a), by striking the phrase “and this section”, and by inserting after subsection (c) the following:

(d) Sec. 6 of this act shall take effect on October 1, 2012, and shall apply to all health insurance plans and health benefit plans on and after October 1, 2012, on such date as a health insurer issues, offers, or renews the plan, but in no event later than October 1, 2013.

(e) This section and Secs. 7 through 10 of this act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to pharmacy audits, reimbursement for ambulance services, midwifery, and the reporting requirements of health insurers”

Thereupon, **Rep. Turner of Milton** raised a Point of Order that the amendment was not germane to the House proposal of amendment, which the Speaker ruled well taken in that the House proposal of amendment does not deal with health insurance and the amendment does.

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

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 244

Senate bill, entitled

An act relating to referral to court diversion for driving with a suspended license

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 251

Senate bill, entitled

An act relating to miscellaneous amendments to laws pertaining to motor vehicles

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Third Reading; Bill Passed in Concurrence**S. 115**

Senate bill, entitled

An act relating to ineffective assistance claims against assigned counsel

Was taken up, read the third time and passed in concurrence.

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto****H. 503**

The Senate proposed to the House to amend House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

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

Sec. 1. 2 V.S.A. § 64 is amended to read:

§ 64. EMPLOYMENT OF ASSISTANTS; ~~TRAFFIC CONTROL~~; CAPITOL POLICE; TRAINING; UNIFORMS AND EQUIPMENT

* * *

~~(c) The sergeant at arms may employ a traffic control officer whose duties shall include, but not be limited to, overseeing necessary security measures and the control of traffic about the capitol building. The traffic control officer shall be an exempt state employee. The sergeant at arms with the approval of the joint rules committee shall fix the terms and compensation of the traffic control officer, who shall be entitled to receive the same annual salary adjustments available to classified employees in comparable salary ranges. At state expense and with the approval of the sergeant at arms, the traffic control officer and capitol police officers shall be provided with training, and furnished uniforms and equipment necessary in the performance of their duties, and such items shall remain the property of the state.~~

Sec. 2. 2 V.S.A. § 70 is amended to read:

§ 70. CAPITOL POLICE DEPARTMENT

(a) Creation. A capitol police department is created within the office of the sergeant at arms. The sergeant at arms shall appoint and may remove, at his or her pleasure, individuals as capitol police officers, one of whom shall be appointed to serve as chief. All such positions shall be exempt state

employees. ~~The traffic control officer and any other employee of the sergeant at arms may, in addition to other positions and duties, be appointed as a capitol police officer.~~ The chief shall supervise the officer force under the direction of the sergeant at arms. Such appointments and all oaths or affirmations shall be in writing and filed with the sergeant at arms. An officer shall also serve as a deputy sergeant at arms and as a notary public pursuant to 24 V.S.A. § 442.

(b) Powers; training.

(1) Capitol police officers shall have all the same powers and authority as sheriffs and other law enforcement officers anywhere in the state, which shall include the authority to arrest persons and enforce the civil and criminal laws, keep the peace, provide security, and to serve civil and criminal process. For this purpose, capitol police officers shall subscribe to the same oaths required for sheriffs.

~~(2) Capitol police officers who are not certified in either the full-time or part-time certification program of the Vermont criminal justice training council (VCJTC) shall meet qualification and certification standards prescribed by the sergeant at arms in consultation with the executive director of the VCJTC. In setting the standards, the sergeant at arms shall consider the part-time certification program provided to other law enforcement officers by the VCJTC.~~

~~(3) As an alternative, in the sole discretion of the sergeant at arms, capitol police officers shall be certified pursuant to the part-time certification program of the VCJTC.~~

~~(4) The VCJTC shall make training available to capitol police officers at no expense to the sergeant at arms, and the VCJTC shall certify those officers as capitol police officers if they meet the certification standards set by the sergeant at arms, or as a regular law enforcement officer if the requirements of the part-time certification program are met, regardless of the number of hours or weeks worked by the capitol police officer.~~

~~(5) Notwithstanding any other provision of law to the contrary, a capitol police officer shall be a law enforcement officer as if certified by the Vermont criminal justice training council pursuant to the provisions of 20 V.S.A. chapter 151 of Title 20.~~

(c) Coordination of capitol complex security: The capitol police department shall coordinate security within the state house and assist the commissioner of buildings and general services in providing security and law enforcement services within the capitol complex, as delineated in a memorandum of understanding signed by the commissioner and the sergeant at

arms no later than June 30, 2000, and as subsequently amended. In all other areas of the capitol complex, except the space occupied by the supreme court, the security, control of traffic, and coordination of law enforcement activity shall be under the direction of the commissioner of buildings and general services, with which the capitol police department may assist.

Sec. 3. 20 V.S.A. § 2351 is amended to read:

§ 2351. PURPOSE; DEFINITION

In order to promote and protect the health, safety, and welfare of the public, it is in the public interest to provide for the creation of “the Vermont criminal justice training council.” The council is created to encourage and assist municipalities, counties, and governmental agencies of this state in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of recruit and in-service training for law enforcement officers, including members of the department of public safety, capitol police officers, municipal police officers, constables, ~~corrections~~ correctional officers, prosecuting personnel, motor vehicle inspectors, state investigators employed on a full-time basis by the attorney general, fish and game wardens, sheriffs and their deputies who exercise law enforcement powers pursuant to the provisions of ~~sections 311 and 307(a) of Title 24 V.S.A. §§ 307 and 311~~, and railroad police commissioned pursuant to ~~30 V.S.A. chapter 45, subchapter 8~~ 5 V.S.A. chapter 68, subchapter 8. The council shall offer continuing programs of instruction in up-to-date methods of law enforcement and the administration of criminal justice. It is the responsibility of the council to encourage the participation of local governmental units in the program and to aid in the establishment of adequate training facilities.

Sec. 4. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS

(a) Unless waived by the council under standards adopted by rule, and notwithstanding any statute or charter to the contrary, no person shall exercise law enforcement authority:

(1) as a part-time law enforcement officer without completing a basic training course within a time prescribed by rule of the council; or

(2) as a full-time law enforcement officer without either:

(A) completing a basic training course in the time and manner prescribed by the council; or

(B) having received, before July 1, 1968, permanent full-time appointment as a law enforcement officer, and completing a basic training course before July 1, 1982.

(3) as a full or part-time law enforcement officer without completing annual in-service training requirements as prescribed by the council.

(b) All programs required by this section shall be approved by the council. Completion of a program shall be established by a certificate to that effect signed by the executive director of the council.

(c) For the purposes of this section:

(1) "Law enforcement officer" means a member of the department of public safety who exercises law enforcement powers, a member of the state police, a capitol police officer, a municipal police officer, a constable who exercises law enforcement powers, a motor vehicle inspector, an employee of the department of liquor control who exercises law enforcement powers, an investigator employed by the secretary of state, board of medical practice investigators employed by the department of health, attorney general, or a state's attorney, a fish and game warden, a sheriff, or deputy sheriff who exercises law enforcement powers, or a railroad police officer commissioned pursuant to ~~30 V.S.A. chapter 45, subchapter 8~~ 5 V.S.A. chapter 68, subchapter 8.

(2) "Full-time law enforcement officer" means a law enforcement officer with duties of a predictable and continuing nature which require more than 32 hours per week and more than 25 weeks per year.

(3) "Part-time law enforcement officer" means a law enforcement officer who is not employed full time.

(d) The council may determine whether a particular position is full-time or part-time. Any requirements in this section shall be optional for any elected official.

Sec. 5. Sec. 13 of No. 195 of the 2007 Adj. Sess. (2008), as amended by Sec. 11 of No. 108 of the Acts of the 2009 Adj. Sess. (2010), is amended to read:

Sec. 13. EFFECTIVE DATE

Secs. 8 and 9 of this act shall take effect on ~~July 1, 2012~~ July 1, 2013.

Sec. 6. REPORT

On or before December 15, 2012, the law enforcement advisory board, in consultation with the criminal justice training council, shall report to the senate and house committees on judiciary and on government operations

recommendations for how constables may be certified as law enforcement officers as required by Sec. 5 of this act. The report shall include recommendations for how constables may complete the program's field training officer program.

Sec. 7. INTERIM STUDY OF LEGISLATIVE PARKING

(a) Creation of committee. There is created an interim study of legislative parking to study the issue of parking space availability as it affects members of the general assembly.

(b) Membership. The study shall be conducted by the sergeant at arms, the commissioner of buildings and general services, and the operations manager of the legislative council in consultation with members of senate and house leadership.

(c) Powers and duties. The study shall:

(1) evaluate the available parking spaces available within and around the capitol complex and, in particular, the parking spaces available for members of the general assembly;

(2) survey members of the 2011–2012 general assembly on whether there should be assigned parking spaces and, if so, the best manner in making those assignments;

(3) consider whether it is feasible to reserve 180 parking spaces for the exclusive use of members of the general assembly, taking into consideration:

(A) how those parking spaces would be allotted, such as by lottery or by seniority;

(B) the preservation of parking spaces for members who are reelected to the 2013–2014 general assembly and who currently have a parking space reserved due to having a special need, holding a leadership position, or for other circumstances; and

(C) the impact the reservations would have upon the remaining spaces currently available for capitol police, legislative staff, and others.

(d) Report. By January 15, 2013, the committee shall report to the general assembly its findings and any recommendations for change from current practice.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Thereupon, **Rep. Lippert of Hinesburg** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

By striking Secs. 5 through 8 in their entirety and inserting in lieu thereof the following:

Sec. 5. CONSTABLES; LAW ENFORCEMENT AUTHORITY

Notwithstanding the effective date of the amendment to 20 V.S.A. § 2358(d) set forth in Sec. 8 of No. 195 of the Acts of the 2007 Adj. Sess. (2008), any constable who, as of May 1, 2012, has commenced a basic training course in order to obtain certification through the Vermont criminal justice training council pursuant to 20 V.S.A. § 2358 and who is not prohibited from exercising law enforcement authority pursuant to 24 V.S.A. § 1936a shall have until July 1, 2013 to complete that training and may exercise his or her law enforcement authority until July 1, 2013. Thereafter, such a constable shall comply with the provisions of 20 V.S.A. § 2358 in order to exercise law enforcement authority.

Sec. 6. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL;

CONSTABLE FIELD TRAINING

By a date that will allow those constables meeting the criteria set forth in Sec. 5 of this act (constables; law enforcement authority) to obtain certification through the Vermont criminal justice training council pursuant to

20 V.S.A. § 2358 by July 1, 2013, the council shall provide the field training necessary in order for those constables to become certified or shall provide to those constables an alternative source that will provide that field training, which may include the provision of field training by a constable of a different municipality who is a qualified field training officer and who is indemnified by the municipality of the constable receiving the field training. By January 15, 2014, the council shall report to the house and senate committees on judiciary and on government operations the sources from which constables received field training pursuant to this section.

Sec. 7. INTERIM STUDY OF AND PROPOSED PLAN FOR

LEGISLATIVE PARKING

(a) Creation of committee. There is created an interim study of legislative parking to study the issue of parking space availability as it affects members of the general assembly.

(b) Membership. The study shall be conducted by the sergeant at arms, the commissioner of buildings and general services, and the operations manager of the legislative council in consultation with members of senate and house leadership.

(c) Powers and duties. The study shall:

(1) evaluate the available parking spaces available within and around the capitol complex and, in particular, the parking spaces available for members of the general assembly;

(2) survey members of the 2011–2012 general assembly on whether there should be assigned parking spaces and, if so, the best manner in making those assignments;

(3) consider whether it is feasible to reserve 180 parking spaces for the exclusive use of members of the general assembly, taking into consideration:

(A) how those parking spaces would be allotted, such as by lottery or by seniority;

(B) the preservation of parking spaces for members who are reelected to the 2013–2014 general assembly and who currently have a parking space reserved due to having a special need, holding a leadership position, or for other circumstances; and

(C) the impact the reservations would have upon the remaining spaces currently available for capitol police, legislative staff, and others.

(d) Report. By November 15, 2012, the committee shall report electronically to the speaker of the house; the president pro tempore of the senate; the chairs of the house committee on corrections and institutions and the senate committee on institutions; and to each member of the general assembly its findings and a proposed plan that may be implemented by January 9, 2013.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

and that after passage the title of the bill be amended to read: “An act relating to the certification of capitol police and constables and to legislative traffic control and parking”

Which was agreed to.

**Senate Proposal of Amendment Considered; House Requested Senate to
Recede From its Proposal of Amendment**

H. 759

The Senate proposed to the House to amend House bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 175 is amended to read:

CHAPTER 175. THE BOARD OF MENTAL HEALTH

* * *

§ 7304. PERSONS NOT HOSPITALIZED OR RESIDING IN A SECURE RESIDENTIAL RECOVERY FACILITY

The board shall have general jurisdiction of the mentally retarded and the mentally ill who have been discharged from a hospital, secure residential recovery facility, or training school by authority of the board. It shall also have jurisdiction of the mentally ill and mentally retarded of the state ~~not~~, who are neither hospitalized nor residing in a secure residential recovery facility so far as concerns their physical and mental condition and their care, management, and medical treatment and shall make such orders therein as each case duly brought to its attention requires.

§ 7305. POWERS OF BOARD

The board may administer oaths, summon witnesses before it in a case under investigation, and discharge by its order, in writing, any person confined as a patient in a hospital or in a secure residential recovery facility whom it finds on investigation to be wrongfully hospitalized or residing in a secure residential recovery facility or in a condition to warrant discharge. The board shall discharge patients, not criminals, who have eloped from a hospital or secure residential recovery facility and have not been apprehended at the expiration of six months from the time of their elopement. The board shall not order the discharge of a patient without giving the superintendent of the hospital or secure residential recovery facility an opportunity to be heard.

§ 7309. REFERRALS FROM GOVERNOR

The governor may refer the case of a patient in a hospital or secure residential recovery facility to the board for its investigation. The board shall investigate the case and by its order grant such relief as each case requires. If

the board is without power to grant the necessary relief it shall cause proceedings to be commenced in a court of competent jurisdiction at the expense of the state, in order to obtain the necessary relief and promote the ends of justice and humanity.

§ 7310. PETITION FOR INQUIRY

The attorney or guardian of a patient or any other interested party may apply to the board to inquire into the treatment and hospitalization or placement at a secure residential recovery facility of a patient, and the board shall take appropriate action upon the application.

§ 7311. INVESTIGATION

If, in the judgment of the board, an investigation is necessary, it shall appoint a time and place for hearing and give the patient's attorney, guardian and spouse, parent or adult child or interested party, if any, in that order, and the head of the hospital or secure residential recovery facility reasonable notice thereof. At the time appointed it shall conduct a hearing and make any lawful order the case requires.

* * *

§ 7313. BOARD SHALL VISIT INSTITUTION

The board shall ascertain by examination and inquiry whether the laws relating to individuals in custody or control are properly observed and may use all necessary means to collect all desired information. It shall carefully inspect every part of the hospital, secure residential recovery facility, or training school visited with reference to its cleanliness and sanitary condition, determine the number of patients or students in seclusion or restraint, the diet of the patients or students and any other matters which it considers material. It shall offer to every patient or student an opportunity for an interview with its visiting members or agents, and shall investigate those cases which in its judgment require special investigation, and particularly shall ascertain whether any individuals are retained at any hospital, secure residential recovery facility, or training school who ought to be discharged.

* * *

§ 7315. DEFINITION

As used in this chapter, the term "secure residential recovery facility" shall be defined as in subsection 7620(e) of this title.

Second: In Sec. 3, 18 V.S.A. § 7620, subsection (e), by striking out "§ 7102(11)" and inserting in lieu thereof § 7102

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. French of Randolph** moved that the House request the Senate to recede from its proposal of amendment, which was agreed to.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 496

House bill, entitled

An act relating to preserving Vermont's working landscape

H. 503

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

H. 759

House bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

S. 89

House bill, entitled

An act relating to Medicaid for Working Persons with Disabilities

S. 200

House bill, entitled

An act relating to the reporting requirements of health insurers

S. 244

House bill, entitled

An act relating to referral to court diversion for driving with a suspended license

S. 251

House bill, entitled

An act relating to miscellaneous amendments to laws pertaining to motor vehicles

Recess

At ten o'clock and fifty-five minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock in the afternoon, the Speaker called the House to order.

Rules Suspended; Senate Proposal of Amendment Concurred in**H. 627**

On motion of **Rep. Savage of Milton**, the rules were suspended and House bill, entitled

An act relating to an opioid addiction treatment system

Appearing on the Calendar for notice, was taken up for immediate consideration.

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

Sec. 1. 18 V.S.A. chapter 93 is added to read:

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

§ 4751. PURPOSE

It is the purpose of this chapter to authorize the department of health to establish a regional system of opioid addiction treatment.

§ 4752. OPIOID ADDICTION TREATMENT SYSTEM

(a) The department of health shall establish by rule a regional system of opioid addiction treatment.

(b) The rules shall include the following requirements:

(1) Patients shall receive appropriate, comprehensive assessment and therapy from a physician or advanced practice registered nurse and from a licensed clinical professional with clinical experience in addiction treatment, including a psychiatrist, master's- or doctorate-level psychologist, mental health counselor, clinical social worker, or drug and alcohol abuse counselor.

(2) A medical assessment shall be conducted to determine whether pharmacological treatment, which may include methadone, buprenorphine, and other federally approved medications to treat opioid addiction, is medically appropriate.

(3) A routine medical assessment of the appropriateness for the patient of continued pharmacological treatment based on protocols designed to

encourage cessation of pharmacological treatment as medically appropriate for the individual treatment needs of the patient.

(4) Controlled substances for use in federally approved pharmacological treatments for opioid addiction shall be dispensed only by:

(A) a treatment program authorized by the department of health; or

(B) a physician or advanced practice registered nurse who is not affiliated with an authorized treatment program but who meets federal requirements for use of controlled substances in the pharmacological treatment of opioid addiction.

(5) Comprehensive education and training requirements shall apply for health care providers, pharmacists, and the licensed clinical professionals listed in subdivision (1) of this subsection, including relevant aspects of therapy and pharmacological treatment.

(6) Patients shall abide by rules of conduct, violation of which may result in discharge from the treatment program, including:

(A) provisions requiring urinalysis at such times as the program may direct;

(B) restrictions on medication dispensing designed to prevent diversion of medications and to diminish the potential for patient relapse; and

(C) such other rules of conduct as a provider authorized to provide treatment under subdivision (4) of this subsection may require.

(c) No later than January 15 of each year from 2013 through 2016, inclusive, the commissioner shall report to the house committees on human services and on health care and the senate committee on health and welfare regarding the regional system of opioid addiction treatment, including the system's effectiveness.

Sec. 2. REPEAL

Sec. 132 of No. 66 of the Acts of 2003 (Opiate addiction treatment) is repealed on passage of this act.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Which proposal of amendment was considered and concurred in.

Recess

At one o'clock and ten minutes in the afternoon, the Speaker declared a recess until five o'clock in the afternoon.

At five o'clock and eight minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 52

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 559. An act relating to health care reform implementation.

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

House Resolution Referred to Committee**H.R. 19**

House resolution, entitled

House resolution relating to the Green Mountain Care board and the definition of family planning

Offered by: Representatives Batchelor of Derby, Strong of Albany, Acinapura of Brandon, Bouchard of Colchester, Brennan of Colchester, Burditt of West Rutland, Canfield of Fair Haven, Donaghy of Poultney, Donahue of Northfield, Fagan of Rutland City, Hebert of Vernon, Higley of Lowell, Hubert of Milton, Kilmartin of Newport City, Larocque of Barnet, Marcotte of Coventry, McNeil of Rutland Town, Morrissey of Bennington, Pearce of Richford, Perley of Enosburgh, Reis of St. Johnsbury, Savage of Swanton, Shaw of Pittsford and Winters of Williamstown

Whereas, Act 48 of 2011, which established Green Mountain Care, enacted 33 V.S.A. § 1825(a)(1), which provides that "Green Mountain Care shall include primary care," and

Whereas, Act 48 defines "primary care" in 33 V.S.A. § 1823(10) as including family planning, and

Whereas, the World Health Organization defines family planning services as those that allow “individuals and couples to anticipate and attain their desired number of children and the spacing and timing of their births. It is achieved through use of contraceptive methods and the treatment of involuntary infertility,” and

Whereas, an overwhelming majority of both international and domestic governing bodies have affirmed that in no circumstances can abortion be regarded as a method of family planning, and

Whereas, it is the longstanding policy of the federal government that abortion is not a method of family planning. For example, section 1008 of the Public Health Service Act (42 U.S.C. § 300a-6) specifies that “none of the funds appropriated under [the family planning programs operated pursuant to Title X of the act] shall be used in programs where abortion is a method of family planning,” and

Whereas, when the federal or a state government appropriates public funds to establish a program, it is entitled to define the limits of that program, Rust v. Sullivan, 500 U.S. 173, 194 (1991), and

Whereas, the state of Vermont has given priority to the funding of prenatal care through the Dr. Dynasaur program to ensure that pregnancies have healthy outcomes for mothers and babies, and

Whereas, the taxpayers of the state of Vermont under the Medicaid program and other state-funded health programs already pay for “income-eligible” abortions at the cost of tens of thousands of dollars per year, and

Whereas, if the Green Mountain Care board were to interpret the definition of “family planning” to include abortions, it would expand taxpayer funding of abortions to all, including those with the ability to pay, and

Whereas, in states where abortions are provided at taxpayer expense, the number of abortions increases, now therefore be it

Resolved by the House of Representatives:

That this legislative body urges the Green Mountain Care board to interpret its statutory mandate to cover family planning services as not including abortion, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Green Mountain Care board, Governor Peter Shumlin, the department of financial regulation, and the Vermont Congressional Delegation.

Which was read and referred to the committee on Health Care.

House Resolution Placed on Calendar**H.R. 20**

House resolution encouraging the Vermont fish and wildlife board to amend the state administrative rules pertaining to fishing in order to authorize additional year-round fishing opportunities and the transporting of baitfish under designated circumstances

Offered by: Committee on Fish, Wildlife and Water Resources

Whereas, it would be to the economic advantage of the state of Vermont to increase the percentage of Vermonters and out-of-state visitors participating in outdoor recreational activities, including fishing, and

Whereas, expanding the availability of year-round fishing in Vermont would enable the Vermont fish and wildlife board (the board) to better meet its management goals of providing regulated and sustained fishing opportunities, and

Whereas, increased year-round fishing in Vermont would result in more anglers fishing in the state; would enable the board to solicit information from a wider range of anglers regarding their fishing preferences and successes; and would enable the department of fish and wildlife (the department) to share this information with the board, and

Whereas, year-round fishing could improve the monitoring of the habitat of sportfishing species and the evaluation of the current and prospective fishing harvest administrative rules, and

Whereas, with these objectives in mind, the board should consider amending its administrative rules to authorize expanded year-round fishing opportunities, and

Whereas, such an administrative rules amendment would also encourage more people from out-of-state to visit Vermont as they would be able to ski in the morning, fish in the afternoon, and snowshoe in the evening, and

Whereas, wintertime fishing enthusiasts could fish from both open and frozen waters on the same day, and

Whereas, administrative rules already exist for certain streams and rivers that are open to fishing 12 months per year, and

Whereas, the department could seek assistance from state agencies and sporting groups to develop a promotional campaign to promote Vermont as a year-round fishing destination, and

Whereas, amending the board's administrative rules to authorize the transport by motor vehicle or other method of baitfish harvested from or used on a water of the state, from one water access point to another, provided that the baitfish are used on the same body of water, would be of great benefit to anglers, now therefore be it

Resolved by the House of Representatives:

That this legislative body encourages the Vermont fish and wildlife board to consider amending the administrative rules pertaining to fishing in order to authorize additional year-round fishing opportunities and the transport by motor vehicle or other method of baitfish harvested from or used on a water of the state, from one water access point to another, provided that the baitfish are used on the same body of water, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Vermont fish and wildlife board.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Joint Resolution Placed on Calendar

J.R.H. 37

Joint resolution expressing the General Assembly's expectation that the full range of concerns and issues raised by the general public regarding the merger of Central Vermont Public Service Corporation and Green Mountain Power Corporation will be given full consideration, and that the final agreement must be in the best interests of the ratepayers and people of the State of Vermont

Offered by: Representatives Cheney of Norwich, Botzow of Pownal, Canfield of Fair Haven, Klein of East Montpelier, Kupersmith of South Burlington, Leriche of Hardwick, Marcotte of Coventry, Ralston of Middlebury, Ancel of Calais, Andrews of Rutland City, Bartholomew of Hartland, Batchelor of Derby, Bissonnette of Winooski, Bohi of Hartford, Campion of Bennington, Christie of Hartford, Clarkson of Woodstock, Condon of Colchester, Conquest of Newbury, Copeland-Hanzas of Bradford, Courcelle of Rutland City, Dakin of Chester, Deen of Westminster, Devereux of Mount Holly, Donovan of Burlington, Edwards of Brattleboro, Ellis of Waterbury, Emmons of Springfield, Frank of Underhill, French of Shrewsbury, French of Randolph, Grad of Moretown, Head of South Burlington, Heath of Westford, Hebert of Vernon, Hooper of Montpelier, Jerman of Essex, Jewett of Ripton, Keenan of St. Albans City, Kitzmiller of Montpelier, Krowinski of Burlington, Larocque of Barnet, Lawrence of Lyndon, Lenes of Shelburne, Lewis of Derby, Lorber of Burlington, Malcolm of Pawlet, Manwaring of Wilmington,

Marek of Newfane, Martin of Wolcott, McAllister of Highgate, McCullough of Williston, McNeil of Rutland Town, Mook of Bennington, Mrowicki of Putney, Myers of Essex, Nuovo of Middlebury, Peltz of Woodbury, Potter of Clarendon, Pugh of South Burlington, Ram of Burlington, Russell of Rutland City, Shand of Weathersfield, Sharpe of Bristol, South of St. Johnsbury, Strong of Albany, Stuart of Brattleboro, Taylor of Barre City, Toll of Danville, Townsend of Randolph, Waite-Simpson of Essex, Webb of Shelburne, Wilson of Manchester, Wizowaty of Burlington, Woodward of Johnson, Yantachka of Charlotte and Zagar of Barnard

Whereas, currently before the public service board is a petition proposing to merge Vermont's two largest electric utilities, Central Vermont Public Service Corporation (CVPS) and Green Mountain Power Corporation (GMP), and

Whereas, a merger of this magnitude involves many complexities and considerations and, if approved by the public service board, will be significant for the State of Vermont, and

Whereas, in the merger proceeding, the public service board has received testimony from a number of parties setting forth different positions and the evidentiary record is now closed, and

Whereas, the public service board had previously approved windfall sharing mechanisms for both GMP and CVPS, arising out of a Hydro Quebec power purchase agreement, but left the specific procedure in each case as to how the windfall proceeds would be returned to customers for later resolution at the time of any subsequent acquisition or merger, and

Whereas, on March 26, 2012, the department of public service and GMP entered into a comprehensive memorandum of understanding (MOU) concerning the proposed merger between GMP and CVPS, and several other parties also entered into MOUs regarding issues of concern to those parties, and

Whereas, as part of the March 26th MOU, the department of public service achieved numerous beneficial concessions, in particular with regard to increased public governance of Vermont Electric Power Company (VELCO), so that eight of 13 board seats will represent the public interest compared to the three originally proposed by GMP, and

Whereas, as details about the proposed merger and MOU have become known by the general public, the people of our state have expressed a range of concerns about matters directly and indirectly affecting them, and

Whereas, there is disagreement among the general public as to the best mechanism for returning the \$21 million in windfall proceeds to CVPS

ratepayers and as to whether the efficiency investments proposed for these proceeds should be recovered in future rates, and

Whereas, there will be significant operational savings as a result of the merger, but there is a concern as to whether these operational savings should be shared between investors and the ratepayers, and if so, how, and

Whereas, the House of Representatives has taken testimony from the utilities, the department of public service, AARP, and other interested persons and has heard opinions regarding the potential value of the merger, as well as its risks and drawbacks, and on the windfall sharing mechanism in particular, and

Whereas, the public service board has now heard evidence and received briefs setting forth the positions of the parties, as well as public comments, and

Whereas, by law, the public service board exercises independent judgment and has not yet ruled on the proposed merger and acquisition, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expects that the full range of concerns and issues raised by the general public will be given full consideration, and that the proposed merger must be in the best interests of the ratepayers and people of the State of Vermont, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the department of public service, Green Mountain Power Corporation, and Central Vermont Public Service Corporation, and that the department of public service send a copy to all parties in the merger docket.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Recess

At five o'clock and ten minutes in the afternoon, the Speaker declared a recess until five o'clock and twenty-five minutes in the afternoon.

Rep. Leriche of Hardwick in Chair.

At at five o'clock and twenty-nine minutes in the afternoon, the Speaker called the House to order.

**Rules Suspended; Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 37

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to telemedicine

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to amend House bill, entitled

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

Sec. 1. 8 V.S.A. chapter 107, subchapter 14 is added to read:

Subchapter 14. Telemedicine

§ 4100k. COVERAGE FOR TELEMEDICINE SERVICES

(a) All health insurance plans in this state shall provide coverage for telemedicine services delivered to a patient in a health care facility to the same extent that the services would be covered if they were provided through in-person consultation.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network and may require originating site health care providers to document the reason the services are being provided by telemedicine rather than in person.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's policy.

(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.

(f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

(g) As used in this subchapter:

(1) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid, the Vermont health access plan, and any other public health care assistance program offered or administered by the state or by any subdivision or instrumentality of the state. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

(2) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.

(3) "Store and forward" means an asynchronous transmission of medical information to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which the health care provider at the distant site reviews the medical information without the patient present in real time.

(4) "Telemedicine" means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

Sec. 2. 18 V.S.A. chapter 219 is redesignated to read:

CHAPTER 219. HEALTH INFORMATION TECHNOLOGY
AND TELEMEDICINE

Sec. 3. STATUTORY REVISION

18 V.S.A. §§ 9351–9352 shall be recodified as subchapter 1 (Health Information Technology) of chapter 219.

Sec. 4. 18 V.S.A. chapter 219, subchapter 2 is added to read:

Subchapter 2. Telemedicine

§ 9361. HEALTH CARE PROVIDERS PROVIDING TELEMEDICINE OR
STORE AND FORWARD SERVICES

(a) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this state may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment

recommendations to a patient after having performed an appropriate examination of the patient either in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings. For purposes of this subchapter, "telemedicine" shall have the same meaning as in 8 V.S.A. § 4100k.

(b) Receiving teledermatology or teleophthalmology by store and forward means shall not preclude a patient from receiving real time telemedicine or face-to-face services with the distant site health care provider at a future date. Originating site health care providers involved in the store and forward process shall ensure informed consent from the patient. For purposes of this subchapter, "store and forward" shall have the same meaning as in 8 V.S.A. § 4100k.

Sec. 5. RULEMAKING

(a) The commissioner of Vermont health access may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this act.

(b) The commissioner of banking, insurance, securities, and health care administration may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this act.

Sec. 6. HEALTH CARE FACILITY; STUDY

(a) The commissioner of financial regulation or designee shall convene a workgroup comprising health care providers, health insurers, and other interested stakeholders to consider whether and to what extent Vermont should require health insurance coverage of services delivered to a patient by telemedicine outside a health care facility.

(b) No later than January 15, 2013, the commissioner of financial regulation or designee shall report the workgroup's recommendations to the house committee on health care and the senate committees on health and welfare and on finance.

Sec. 7. EFFECTIVE DATE

(a) Sec. 1 of this act shall take effect on October 1, 2012 and shall apply to all health insurance plans on and after October 1, 2012 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event no later than October 1, 2013.

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

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Till of Jericho** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

First: In Sec. 4, in 18 V.S.A. § 9361, in subsection (b), after the (b), by inserting two new sentences to read: “A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable time of the patient’s notification of the results of the initial consultation.”

Second: In Sec. 5, Rulemaking, in subsection (b), by striking “banking, insurance, securities, and health care administration” and inserting in lieu thereof “financial regulation”

Which was agreed to.

**Rules Suspended; Favorable Report; Third Reading Ordered;
Rules Suspended; Bill Read the Third Time and Passed**

H. 790

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to approval of amendments to the charter of the town of Hartford

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Hubert of Milton, for the committee on Government Operations, to which the bill had been referred reported in favor of its passage.

Thereupon, the bill was read the second time and third reading ordered.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed.

Rules Suspended; Favorable Report; Third Reading Ordered

S. 215

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to evaluating net costs of government purchasing

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Hubert of Milton, for the committee on Government Operations, to which had been referred reported in favor of its passage.

Thereupon, the bill was read the second time and third reading ordered.

On motion of **Rep. Turen of Milton**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence.

Thereupon, the bill was read the third time and passed in concurrence.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 37

House bill, entitled

An act relating to telemedicine

H. 790

House bill, entitled

An act relating to approval of amendments to the charter of the town of Hartford

S. 215

Senate bill, entitled

An act relating to evaluating net costs of government purchasing

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Alexandra MacLean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-fourth day of April, 2012, he approved and signed bills originating in the House of the following title:

H. 760 An act relating to lowering to 16 the age of consent for blood donation

H. 765 An act relating to regulating mental health needs of the corrections population

Adjournment

At five o'clock and forty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock in the forenoon.

Thursday, April 26, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Norman Macleod of St. James Episcopal Church, Woodstock, VT.

Message from the Senate No. 53

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 233. An act relating to the mandatory age of school attendance and creating flexible pathways to high school completion.

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

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

H. 272. An act relating to maintenance of private roads.

H. 327. An act relating to the uniform principal and income act .

And has passed the same in concurrence.

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

S. 222. An act relating to cost-sharing for employer-sponsored insurance assistance plans.

S. 236. An act relating to health care practitioner signature authority.

And has concurred therein.

Senate Bill Referred**S. 233**

Senate bill, entitled

An act relating to the mandatory age of school attendance and creating flexible pathways to high school completion

Was read and referred to the committee on Education.

Bill Referred to Committee on Ways and Means**S. 152**

House bill, entitled

An act relating to the definition of line of duty in the workers' compensation statutes

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Recess

At ten o'clock in the forenoon, the Speaker declared a recess until ten o'clock and thirty minutes in the forenoon.

At eleven o'clock in the forenoon, the Speaker called the House to order.

Bill Committed**H. 722**

House bill, entitled

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

Appearing on the Calendar for action, was taken up and pending the reading of the report of the committee on Agriculture, on motion of **Rep. Partridge of Windham**, the bill was committed to the committee on Judiciary.

Bill Read Second Time; Consideration Interrupted by Recess**H. 718**

Rep. Shand of Weathersfield, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to the department of public service and the public service board

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

TO THE HOUSE OF REPRESENTATIVES:

The Committee on Commerce and Economic Development to which was referred House Bill No. 718 entitled "An act relating to the department of public service and the public service board" respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Effective Date of the CBES * * *

Sec. 1. 21 V.S.A. § 268 is amended to read:

§ 268. COMMERCIAL BUILDING ENERGY STANDARDS

* * *

(c) Revision and interpretation of energy standards. No later than January 1, 2011, the commissioner shall complete rulemaking to amend the commercial building energy standards to ensure that commercial building construction must be designed and constructed in a manner that complies with ANSI/ASHRAE/IESNA standard 90.1-2007 or the 2009 edition of the IECC, whichever provides the greatest level of energy savings. These amendments shall be effective ~~three months~~ one year after final adoption and shall apply to construction commenced on and after the date they become effective. At least every three years after January 1, 2011, the commissioner of public service shall amend and update the CBES by means of administrative rules adopted in accordance with 3 V.S.A. chapter 25. The commissioner shall ensure that appropriate revisions are made promptly after the issuance of updated standards for commercial construction under the IECC or ASHRAE/ANSI/IESNA standard 90.1, whichever provides the greatest level of energy savings. Prior to final adoption of each required revision of the CBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders; builders; building designers; architects; civil, mechanical, and electrical engineers; utility representatives; and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner of public service with additional recommendations for revision of the CBES.

* * *

(2) ~~Except for the amendments required by this subsection to be adopted by January 1, 2011, each~~ Each time the CBES are amended by the commissioner of public service, the amended CBES shall become effective upon a date specified in the adopted rule, a date that shall not be less than ~~three months~~ one year after the date of adoption. Except for the amendments

required by this subsection to be adopted by January 1, 2011, persons submitting an application for any local permit authorizing commercial construction, or an application for construction plan approval by the commissioner of public safety pursuant to 20 V.S.A. chapter 173, before the effective date of the amended CBES shall have the option of complying with the applicable provisions of the earlier or the amended CBES. After the effective date of the original or the amended CBES, any person submitting such an application for commercial construction in an area subject to the CBES shall comply with the most recent version of the CBES.

* * *

Sec. 2. RETROACTIVE APPLICATION

Sec. 1 of this act shall apply to rules adopted under 21 V.S.A. § 268 (commercial building energy standards) on or after September 1, 2011. The department of public service shall conform to the provisions of Sec. 1 of this act, the effective date contained in those rules under 21 V.S.A. § 268 most recently adopted prior to the effective date of this section. The department shall file a conforming copy of the rules with the secretary of state and the legislative committee on administrative rules. The filing shall be deemed to comply with 3 V.S.A. § 843 (filing of adopted rules) as long as the sole rule revision contained in the filing is the change in the effective date required by this section.

* * * Coordination of Energy Planning * * *

Sec. 3. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

(a) The department of public service, through the director for regulated utility planning, shall constitute the responsible utility planning agency of the state for the purpose of obtaining for all consumers in the state proper utility service at minimum cost under efficient and economical management consistent with other public policy of the state. The director shall be responsible for the provision of plans for meeting emerging trends related to electrical energy demand, supply, safety and conservation.

(b) The department, through the director, shall prepare an electrical energy plan for the state. The plan shall be for a 20-year period and shall serve as a basis for state electrical energy policy. The electric energy plan shall be based on the principles of "least cost integrated planning" set out in and developed under section 218c of this title. The plan shall include at a minimum:

(1) an overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for electrical energy, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, modifications in housing types and design, conservation and other trends and factors which, as determined by the director, will significantly affect state electrical energy policy and programs;

(2) an assessment of all energy resources available to the state for electrical generation or to supply electrical power, including among others, fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy and strategies for minimizing the economic and environmental costs of energy supply, including the production of pollutants, by means of efficiency and emission improvements, fuel shifting, and other appropriate means;

(3) estimates of the projected level of electrical energy demand;

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; and

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate ~~five-year~~ six-year period, for the next succeeding ~~five-year~~ six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont.

(c) In developing the plan, the department shall take into account the protection of public health and safety; preservation of environmental quality; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

-
- (E) Vermont electric transmission companies;
 - (F) environmental and residential consumer advocacy groups active in electricity issues;
 - (G) industrial customer representatives;
 - (H) commercial customer representatives;
 - (I) the public service board;
 - (J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;
 - (K) other interested state agencies; and
 - (L) other energy providers.

(2) To the extent necessary, include in the plan surveys to determine needed and desirable plant improvements and extensions and coordination between utility systems, joint construction of facilities by two or more utilities, methods of operations, and any change that will produce better service or reduce costs. To this end, the director may require the submission of data by each company subject to supervision, of its anticipated electrical demand, including load fluctuation, supplies, costs, and its plan to meet that demand and such other information as the director deems desirable.

(e) The department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final plan. The plan shall be adopted no later than January 1, ~~2004~~ 2012 and readopted in accordance with this section by every sixth January 1 thereafter, and shall be submitted to the general assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the submission to be made under this subsection.

(f) After adoption by the department of a final plan, any company seeking board authority to make investments, to finance, to site or construct a generation or transmission facility or to purchase electricity or rights to future electricity, shall notify the department of the proposed action and request a determination by the department whether the proposed action is consistent with the plan. In its determination whether to permit the proposed action, the board shall consider the department's determination of its consistency with the plan along with all other factors required by law or relevant to the board's decision on the proposed action. If the proposed action is inconsistent with the plan, the board may nevertheless authorize the proposed action if it finds that there is good cause to do so. The department shall be a party to any proceeding on the

proposed action, except that this section shall not be construed to require a hearing if not otherwise required by law.

(g) The director shall annually review that portion of a plan extending over the next ~~five~~ six years. The department, through the director, shall ~~annually~~ biennially extend the plan by ~~one two~~ additional ~~year~~ years; and from time to time, ~~but in no~~ and in any event ~~less than~~ every ~~five years~~ sixth year, institute proceedings to review a plan and make revisions, where necessary. The ~~five-year~~ six-year review and any interim revisions shall be made according to the procedures established in this section for initial adoption of the plan. The six-year review and any revisions made in connection with that review shall be performed contemporaneously with readoption of the comprehensive energy plan under section 202b of this title.

(h) The plans adopted under this section ~~shall be submitted to the energy committees of the general assembly and~~ shall become the electrical energy portion of the state energy plan.

(i) It shall be a goal of the electrical energy plan to assure, by 2028, that at least 60 MW of power are generated within the state by combined heat and power (CHP) facilities powered by renewable fuels or by nonqualifying SPEED resources, as defined in section 8002 of this title. In order to meet this goal, the plan shall include incentives for development and strategies to identify locations in the state that would be suitable for CHP. The plan shall include strategies to assure the consideration of CHP potential during any process related to the expansion of natural gas services in the state.

Sec. 4. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The department of public service, in conjunction with other state agencies designated by the governor, shall prepare a comprehensive state energy plan covering at least a 20-year period. The plan shall seek to implement the state energy policy set forth in section 202a of this title. The plan shall include:

(1) A comprehensive analysis and projections regarding the use, cost, supply and environmental effects of all forms of energy resources used within Vermont.

(2) Recommendations for state implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan.

(b) In developing or updating the plan's recommendations, the department of public service shall seek public comment by holding public hearings in at least five different geographic regions of the state on at least three different dates, and by providing notice through publication once a week and at least seven days apart for two or more successive weeks in a newspaper or newspapers of general circulation in the regions where the hearings will be held, and by delivering notices to all licensed commercial radio and television stations with transmitting facilities within the state, plus Vermont Public Radio and Vermont Educational Television.

(c) The department shall adopt a state energy plan by ~~no later than~~ January 1, ~~1994~~ 2012 and shall readopt the plan by every sixth January 1 thereafter. On adoption or readoption, the plan shall be submitted to the general assembly. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to such submission.

(1) Upon adoption of the plan, analytical portions of the plan may be updated ~~annually~~ and published biennially.

(2) Every fourth year after the adoption or readoption of a plan under this section, the department shall publish the manner in which the department will engage the public in the process of readopting the plan under this section.

(3) The publication requirements of subdivisions (1) and (2) of this subsection may be met by inclusion of the subject matter in the department's biennial report.

(4) The plan's implementation recommendations shall be updated by the department no less frequently than every ~~five~~ six years. These recommendations shall be updated prior to the expiration of ~~five~~ six years if the general assembly passes a joint resolution making a request to that effect. If the department proposes or the general assembly requests the revision of implementation recommendations, the department shall hold public hearings on the proposed revisions.

(d) ~~Any distribution~~ Distribution of the plan to members of the general assembly shall be in accordance with the provisions of 2 V.S.A. § 20(a)-(c).

Sec. 5. INTENT; RETROACTIVE APPLICATION

In enacting Secs. 3 (20-year electric plan) and 4 (comprehensive energy plan), the general assembly intends to set the readoption of these plans by the department of public service (the department) on a regular six-year cycle beginning with the comprehensive energy plan adopted by the department in December 2011. The department's adoption of that plan in December 2011

shall be deemed to satisfy the requirements of 30 V.S.A. §§ 202 and 202b, as amended by Secs. 3 and 4 of this act, to adopt plans by January 1, 2012.

Sec. 6. 21 V.S.A. § 269 is amended to read:

§ 269. COMPLIANCE PLAN

The commissioner of public service shall perform all of the following:

(1) No later than September 1, 2011, issue a plan for achieving compliance with the energy standards adopted under this subchapter no later than February 1, 2017 in at least 90 percent of new and renovated residential and commercial building space. In preparing this plan, the department shall review enforcement mechanisms for building energy codes that have been adopted in other jurisdictions and shall solicit the comments and recommendations of one or more mortgage lenders; builders; building designers; architects; civil, mechanical, and electrical engineers; utility representatives; environmental organizations; consumer advocates; energy efficiency experts; the attorney general; and other persons who are potentially affected or have relevant expertise.

(2) No later than ~~June 30, 2012~~ December 31, 2013, by means of administrative rules adopted in accordance with 3 V.S.A. chapter 25:

(A) Establish active training and enforcement programs to meet the energy standards adopted under this subchapter.

(B) Establish a system for measuring the rate of compliance each year with the energy standards adopted under this chapter. Following establishment of this system, the commissioner also shall provide for such annual measurement.

* * * Electronic Filings and Case Management * * *

Sec. 7. 30 V.S.A. § 11(a) is amended to read:

(a) The forms, pleadings, and rules of practice and procedure before the board shall be prescribed by it. The board shall promulgate and adopt rules which include, among other things, provisions that:

(1) A utility whose rates are suspended under the provisions of section 226 of this title shall, within 30 days from the date of the suspension order, file with the board ~~10 copies of~~ all exhibits it intends to use in the hearing thereon together with the names of witnesses it intends to produce in its direct case and a short statement of the purposes of the testimony of each witness. Except in the discretion of the board, a utility shall not be permitted to introduce into

evidence in its direct case exhibits which are not filed in accordance with this rule.

* * *

Sec. 8. 30 V.S.A. § 11a is added to read:

§ 11a. ELECTRONIC FILING AND ISSUANCE

(a) As used in this section:

(1) “Confidential document” means a document containing confidential information that is filed with the board and parties in a proceeding subject to a protective order duly issued by the board.

(2) “Document” means information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

(3) “Electronic filing” means the transmission of documents to the board by electronic means.

(4) “Electronic filing system” means a board-designated system that provides for the electronic filing of documents with the board and for the electronic issuance of documents by the board. If the system provides for the filing or issuance of confidential documents, it shall be capable of maintaining the confidentiality of confidential documents and of limiting access to confidential documents to individuals explicitly authorized to access such confidential documents.

(5) “Electronic issuance” means:

(A) the transmission by electronic means of a document that the board has issued, including an order, proposal for decision, or notice; or

(B) the transmission of a message from the board by electronic means informing the recipients that the board has issued a document, including an order, proposal for decision, or notice and that the document is available for viewing and retrieval from an electronic filing system.

(6) “Electronic means” means any board-authorized method of electronic transmission of a document.

(b) The board, in consultation with the commissioner of information and innovation or designee, by order, rule, procedure, or practice may:

(1) provide for electronic issuance of any notice, order, proposal for decision, or other process issued by the board, notwithstanding any other service requirements set forth in this title or in 10 V.S.A. chapter 43;

(2) require electronic filing of documents with the board;

(3) for any filing or submittal to the board for which the filing or submitting entity is required to provide notice or a copy to another state agency under this title or under 10 V.S.A. chapter 43, waive such requirement if the state agency will receive notice of and access to the filing or submittal through an electronic filing system; and

(4) for any filing, order, proposal for decision, notice, or other process required to be served or delivered by first-class mail or personal delivery under this title or under 10 V.S.A. chapter 43, waive such requirement to the extent the required recipients will receive the filing, order, proposal of decision, notice, or other process by electronic means or will receive notice of and access to the filing, order, proposal for decision, notice, or other process through an electronic filing system.

(c) Any order, rule, procedure, or practice issued under subsection (b) of this section shall include exceptions to accommodate parties and other participants who are unable to file or receive documents by electronic means.

(d) Subsection (b) of this section shall not apply to the requirements for service of citations and notices in writing as set forth in 30 V.S.A. §§ 111(b), 111a(i), and 2804.

Sec. 9. 30 V.S.A. § 20(a) is amended to read:

(a)(1) The board or department may authorize or retain legal counsel, ~~official stenographers~~, expert witnesses, advisors, temporary employees, and other research services:

* * *

(4) The board or department may authorize or retain official stenographers in any proceeding within its jurisdiction, including proceedings listed in subsection (b) of this section.

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

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

(a) In addition to the duties expressly set forth elsewhere by law the secretary shall:

* * *

(9) Submit to the general assembly concurrent with the governor's annual budget request required under 32 V.S.A. § 306, a strategic plan for information technology and information security which outlines the significant deviations from the previous year's ~~information technology~~ plan, and which details the plans for information technology activities of state government for

the following fiscal year as well as the administration's financing recommendations for these activities. For purposes of this section, "information security" shall mean protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide integrity, confidentiality, and availability. All such plans shall be reviewed and approved by the commissioner of information and innovation prior to being included in the governor's annual budget request. The plan shall identify the proposed sources of funds for each project identified. The plan shall also contain a review of the state's information technology and information security and an identification of priority projects by agency. The plan shall include, for any proposed information technology activity with a cost in excess of \$100,000.00:

(A) a life-cycle costs analysis including planning, purchase and development of applications, the purchase of hardware and the ~~on-going~~ ongoing operation and maintenance costs to be incurred over the expected life of the systems; and a cost-benefit analysis which shall include acquisition costs as well as operational and maintenance costs over the expected life of the system;

(B) the cost savings ~~and/or~~ or service delivery improvements or both which will accrue to the public or to state government;

(C) a statement identifying any impact of the proposed new computer system on the privacy or disclosure of individually identifiable information;

(D) a statement identifying costs and issues related to public access to nonconfidential information;

(E) a statewide budget for all information technology activities with a cost in excess of ~~\$100,000~~ \$100,000.00.

(10) The secretary shall annually submit to the general assembly a five-year information technology and information security plan which indicates the anticipated information technology activities of the legislative, executive, and judicial branches of state government. For purposes of this section, "information technology activities" shall mean:

(A) the creation, collection, processing, storage, management, transmission, or conversion of electronic data, documents, or records;

(B) the design, construction, purchase, installation, maintenance, or operation of systems, including both hardware and software, which perform these activities.

* * *

Sec. 11. 22 V.S.A. § 901 is amended to read:

§ 901. DEPARTMENT OF INFORMATION AND INNOVATION

The department of information and innovation, created in 3 V.S.A. § 2283b, shall have all the responsibilities assigned to it by law, including the following:

(1) to provide direction and oversight for all activities directly related to information technology and information security, including telecommunications services, information technology equipment, software, accessibility, and networks in state government. For purposes of this section, "information security" is defined as in 3 V.S.A. § 2222(a)(9);

(2) to manage GOVnet;

(3) to review all information technology and information security requests for proposal in accordance with agency of administration policies;

(4) to review and approve information technology activities in all departments with a cost in excess of \$100,000.00, and annually submit to the general assembly a strategic plan and a budget for information technology and information security as required of the secretary of administration by 3 V.S.A. § 2222(a)(9). For purposes of this section, "information technology activities" is defined in 3 V.S.A. § 2222(a)(10);

(5) to administer the independent review responsibilities of the secretary of administration described in 3 V.S.A. § 2222(g);

(6) to perform the responsibilities of the secretary of administration under 30 V.S.A. § 227b;

(7) to administer communication, information, and technology services, which are transferred from the department of buildings and general services;

(8) to inventory technology assets within state government;

(9) to coordinate information technology and information security training within state government;

* * *

(11) to provide technical support and services to the department of human resources and of finance and management for the statewide central accounting and encumbrance system, the statewide budget development

system, the statewide human resources management system, and other agency of administration systems as may be assigned by the secretary; and

(12) Not later than July 1, 2013, to adopt rules requiring the auditing and updating of state websites.

Sec. 12. 22 V.S.A. § 904 is added to read:

§ 904. STATE WEBSITE AUDITING

Any state agency that maintains or operates a state website shall cause that website to be audited and updated pursuant to rules adopted by the department of information and innovation under subdivision 901(12) of this chapter.

* * * Condemnation Hearing: Service of Citation * * *

Sec. 13. 30 V.S.A. § 111(b) is amended to read:

(b) The citation shall be served upon each person having any legal interest in the property, ~~including each municipality and each planning body where the property is situate like a summons,~~ or on absent persons in such manner as the supreme court may by rule provide for service of process in civil actions. The board also shall give notice of the hearing to each municipality and each planning body where the property is located. The board, in its discretion, may schedule a joint hearing of some or all petitions relating to the same project and concerning properties or rights located in the same town or abutting towns.

* * * Filing Rate Schedules with the Board * * *

Sec. 14. 30 V.S.A. § 225 is amended to read:

§ 225. RATE SCHEDULES

(a) Within a time to be fixed by the board, each company subject to the provisions of this chapter shall file with the board and the department, with separate filings to the directors for regulated utility planning and public advocacy, schedules which shall be open to public inspection, showing all rates including joint rates for any service performed or any product furnished by it within the state, and as a part thereof shall file the rules and regulations that in any manner affect the tolls or rates charged or to be charged for any such service or product. Those schedules, or summaries of the schedules approved by the department, shall be published by the company in two newspapers with general circulation in the state within 15 days after such filing. A change shall not thereafter be made in any such schedules, including schedules of joint rates or in any such rules and regulations, except upon 45 days notice to the board and to the department of public service, and such notice to parties affected by such schedules as the board shall direct. The board shall consider the

department's recommendation and take action pursuant to sections 226 and 227 of this title before the date on which the changed rate is to become effective. All such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 45 days prior to the time the same are to take effect. Subject only to temporary increases, rates may not thereafter be raised without strictly complying with the notice and filing requirements set forth in this section. In no event may a company amend, supplement or alter an existing filing or substantially revise the proof in support of such filing in order to increase, decrease or substantiate a pending rate request, unless, upon opportunity for hearing, the company demonstrates that such a change in filing or proof is necessary for the purpose of providing adequate and efficient service. However, upon application of any company subject to the provisions of this chapter, and with the consent of the department of public service, the board may for good cause shown prescribe a shorter time within which such change may be made; but a change which in effect decreases such tolls or rates may be made upon five days' notice to the board and the department of public service and such notice to parties affected as the board shall direct.

* * *

* * * CPG: Recommendations of Municipal and
Regional Planning Commissions * * *

Sec. 15. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
FACILITIES; CERTIFICATE OF PUBLIC GOOD

* * *

(f) However, the plans for the construction of such a facility within the state must be submitted by the petitioner to the municipality and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement. Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions ~~shall~~ may make recommendations, ~~if any,~~ to the public service board and to the petitioner ~~at least seven days prior to filing of the petition within 21 days after the date the petition is filed~~ with the public service board.

* * *

* * * Universal Service Fund Studies * * *

Sec. 16. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST BASIC TELECOMMUNICATIONS SERVICE

(a) The general assembly intends that the universal service charge be used in the future as a means of keeping basic telecommunications service affordable in all parts of this state, thereby maintaining universal service. ~~In the future, and after this section has been amended by further act of legislation, payments may be made to reduce the cost of basic telecommunications service in areas where that cost would otherwise jeopardize universal service or uniform economic development.~~

(b) The commissioner of public service, in conjunction with the public service board, shall conduct a study of the costs and other factors affecting the delivery of local exchange service by the incumbent local exchange carriers (the providers of last resort). ~~The study shall be conducted either as an independent inquiry or as part of a proceeding or docket affecting other matters~~ include an informal workshop process to be conducted by the board. Such process shall be noticed to the general public and structured to allow written and verbal comments by the general public, service providers, public officials, and others as determined by the board. The study shall:

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

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

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

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

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

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

(B) broadening eligibility for the lifeline program; and

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

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

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

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

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

(c) The results of the study, together with any plan for amending and distributing funds under this section, shall be submitted to the ~~general assembly~~ house committee on commerce and economic development and the senate committee on finance on or before ~~January 15, 1996~~ December 1, 2012.

(d) The commissioner of public service may contract with a consultant to conduct the study required by this section. Costs incurred in conducting the study shall be reimbursed from the state universal service fund up to \$75,000.00.

(e) To the extent this study may require disclosure of confidential information by a telecommunications service provider, such confidential information shall be disclosed to a third party pursuant to a protective

agreement. In no event shall the third party be a person or persons employed by a business competitor or whose primary duties engage them in business competition with a telecommunications service provider submitting the confidential information. The third party may be the consultant retained by the commissioner under subsection (d) of this section or may be another third party agreed upon by the commissioner and the telecommunications service providers. The third party shall be responsible for aggregating the information and, once aggregated, may publicly disclose such information consistent with the purposes of this section. The confidentiality requirements of this subsection shall not affect whether information provided to an agency of the state or a political subdivision of the state pursuant to other laws is or is not subject to disclosure.

Sec. 17. STUDY ON THE STATE USE AND PREPAID WIRELESS
TELECOMMUNICATIONS SERVICES

(a) The commissioner of public service or designee, in consultation with the commissioner of taxes or designee, shall convene a work group to study issues related to application of the state's universal service charge established under 30 V.S.A. chapter 88 to prepaid wireless telecommunications services. The work group shall include representatives of prepaid wireless telecommunications service providers, Vermont retailers of prepaid wireless telecommunications services, consumers, the enhanced-911 program, and any other stakeholders identified by the commissioner. The study shall consider:

- (1) the retail transactions subject to the charge;
- (2) the amount of the charge;
- (3) application of the charge to bundled telecommunications services;
- (4) the effective date of any adjustments to the charge;
- (5) billing and collection procedures, including:

(A) notice of charges to consumers; and

(B) various payment and collection methods, including payment and collection procedures similar to those used for the sales and use tax imposed under 32 V.S.A. chapter 233;

(6) the ability of retailers or the department of taxes, if applicable, to retain a percentage of the fees collected to offset collection and administration costs and, if so, the percentage which may be retained; and

- (7) any other matter deemed relevant by the commissioner.

(b) The commissioner, on behalf of the work group established under subsection (a) of this section, shall report his or her findings and recommendations to the house committee on commerce and economic development and the senate committee on finance not later than December 1, 2012. The report shall include draft legislation for consideration during the 2013 legislative session.

(c) It is the intent of the general assembly that the study authorized under this section shall not circumscribe any obligation which may be imposed on a wireless telecommunications service provider in pending or future proceedings before the public service board concerning designation as an eligible telecommunications carrier.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 12 (relating to state website auditing) shall take effect 60 days after the department of information and innovation adopts rules pursuant to 22 V.S.A. § 901(12).

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Commerce and Economic Development? **Reps Ralston of Middlebury, Young of Glover, Dickinson of St. Albans Town, Scheuermann of Stowe, Buxton of Tunbridge, Champion of Bennington, Taylor of Barre City, Russell of Rutland City and Clarkson of Woodstock** moved to amend the recommendation of amendment offered by the committee on Commerce and Economic Development by adding Sec. 17a to read as follows:

Sec. 17a. BUSINESS AND CONSUMER ADVOCACY OFFICE; WORK GROUP AND PROPOSAL

(a) Findings and purpose. Vermonters believe there is a need for an independent voice in regulatory proceedings representing residential ratepayers, small businesses, and municipalities, many of whom do not have the financial resources or expertise to fully participate in and advance their interests in such proceedings. It is the purpose of this section to establish a work group to propose a model for a business and consumer advocacy office (BACAO) to address that need in Vermont.

(b) BACAO work group. There is created the BACAO work group to be convened by the Vermont attorney general or designee. The purpose of the

work group shall be to develop a proposal for an independent business and consumer advocacy office to represent residential ratepayers, small businesses, and municipalities in proceedings before the public service board, consistent with the following parameters:

(1) the proposed model shall ensure that BACAO has authority to appeal agency or court decisions;

(2) the work group shall study and determine the forums (regulatory, judicial, state, or federal) in which the advocate may represent its statutorily defined interests;

(3) the work group shall examine and make recommendations regarding the relationship between BACAO and the department of public service, including the department's public advocate and its division of consumer affairs and public information, and shall delineate the advocate's access to departmental records, including utility accounting and financial records, as well as the advocate's direct access to utility information and records;

(4) the work group shall take into consideration consumer advocacy models implemented in other jurisdictions; and

(5) the proposed model shall ensure that the operational costs of BACAO, including expert witness fees and other reasonable costs incurred in the preparation and advocacy of a position relating to an issue in a regulatory or court proceeding, shall be borne by the utility or utilities which initiated the proceeding, as determined by the public service board.

(c) Membership. The work group shall include the attorney general or designee, the commissioner of public service or designee, a member of the general assembly selected by the speaker of the house, a member of the general assembly selected by the president pro tempore of the senate, and five other members to be selected by the attorney general. In selecting the five other members the attorney general shall consider selecting representatives of regulated utilities, consumer advocacy organizations, and other stakeholders and interested parties so that a diverse range of interests and opinions is represented. The members of the work group shall elect a chair.

(d) Proposal. The BACAO work group shall prepare draft legislation establishing the enabling authority for the office of utility consumer advocacy, as well as a report detailing its findings and recommendations and the rationale for each. The report and draft legislation shall be submitted to the house committees on commerce and economic development and on natural resources and energy and the senate committees on finance and on natural resources and energy not later than December 15, 2012.

(e) Meetings. The work group may meet up to six times or at the call of the chair and shall cease to exist upon the completion of its duties under this section. The meetings of the work group shall be publicly announced and open to the public and reasonable opportunity shall be given to the public to express its opinion on the matters being considered by the work group.

(f) Public review and comment. Prior to reporting to committees of the general assembly under subsection (d) of this section, the work group shall allow for public review and comment on its proposed draft legislation and report.

Thereupon, **Rep. Ralson of Middlebury** asked and was granted leave of the House to withdraw his amendment.

Pending the question, Shall the House amend the bill as recommended by the committee on Commerce and Economic Development? **Reps. Browning of Arlington, Acinapura of Brandon, Andrews of Rutland City, Aswad of Burlington, Batchelor of Derby, Bohi of Hartford, Bouchard of Colchester, Branagan of Georgia, Burditt of West Rutland, Burke of Brattleboro, Buxton of Tunbridge, Campion of Bennington, Canfield of Fair Haven, Christie of Hartford, Clark of Vergennes, Clarkson of Woodstock, Condon of Colchester, Conquest of Newbury, Consejo of Sheldon, Corcoran of Bennington, Dakin of Chester, Davis of Washington, Degree of St. Albans City, Devereux of Mount Holly, Donahue of Northfield, Eckhardt of Chittenden, Fagan of Rutland City, French of Shrewsbury, Greshin of Warren, Helm of Fair Haven, Higley of Lowell, Howard of Cambridge, Howrigan of Fairfield, Hubert of Milton, Johnson of Canaan, Kilmartin of Newport City, Koch of Barre Town, Komline of Dorset, Larocque of Barnet, Lewis of Berlin, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Miller of Shaftsbury, Mook of Bennington, Moran of Wardsboro, Morrissey of Bennington, Mrowicki of Putney, Myers of Essex, Pearce of Richford, Pearson of Burlington, Peaslee of Guildhall, Perley of Enosburgh, Poirier of Barre City, Ram of Burlington, Reis of St. Johnsbury, Russell of Rutland City, Savage of Swanton, Shaw of Pittsford, Smith of New Haven, South of St. Johnsbury, Strong of Albany, Stuart of Brattleboro, Taylor of Barre City, Till of Jericho, Townsend of Randolph, Turner of Milton, Winters of Williamstown, Woodward of Johnson, Wright of Burlington and Zagar of Barnard** moved to amend the recommendation of amendment offered by the committee on Commerce and Economic Development as follows:

By adding Sec. 17a to read as follows:

Sec. 17a. WINDFALL-SHARING MECHANISM; PAYBACK

(a) The public service board may not approve the acquisition of one electric company by another or the merger of electric companies unless, as a condition of such acquisition or merger, any applicable windfall-sharing mechanism previously established by the board results in direct cash repayment of the full amount of funds subject to the windfall-sharing mechanism to current ratepayers, based on their rate class.

(b) Notwithstanding 1 V.S.A. §§ 213 and 214, subsection (a) of this section shall apply to all petitions filed with the public service board on or after September 1, 2011.

Pending the question, Shall the House amend the recommendation of amendment offered by the committee on Commerce and Economic Development as offered by Reps. Browning of Arlington, et al?

Recess

At twelve o'clock and forty-five minutes in the afternoon, the Speaker declared a recess until one o'clock and thirty minutes in the afternoon.

At two o'clock in the afternoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 718

Consideration resumed on House bill, entitled

An act relating to the department of public service and the public service board

Thereupon, **Rep. Browning of Arlington** asked and was granted leave of the House to withdraw her amendment, and the report of the committee on Commerce and Economic Development was agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 148

Rep. Krebs of South Hero, for the committee on Fish, Wildlife & Water Resources, to which had been referred Senate bill, entitled

An act relating to expediting development of small and micro hydroelectric projects

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. FINDINGS

The general assembly finds:

(1) The existing policy of the state of Vermont is to promote development and use of renewable energy projects, including hydroelectric projects.

(2) Additional capacity exists for development of hydroelectric projects in Vermont, with estimates ranging from 25 megawatts (MW) to 434 MW. The Comprehensive Energy Plan issued in December 2011 by the department of public service (DPS) states in Sec. 5.8.2.1.1:

Opinions differ on the amount of available hydropower that is available in Vermont. Depending on assumptions used, reports vary from 25 MW at 44 sites (estimated by the ANR [agency of natural resources] in 2008) to 434 MW at 1,291 sites (estimated in a DOE [Department of Energy] study in 2006). A 2007 study for the DPS identified more than 90 MW developable at 300 of the existing 1,200 existing dams.

(3) In a report to the general assembly entitled "The Development of Small Hydroelectric Projects in Vermont" (Jan. 9, 2008) at p. 19, ANR states that most hydroelectric projects in Vermont are smaller than five MW in capacity.

(4) Most hydroelectric projects require approval from the Federal Energy Regulatory Commission (FERC). The length and cost of the process of obtaining a FERC approval do not vary significantly with the capacity of the hydroelectric project. However, the ability of a hydroelectric project to absorb this cost decreases as the capacity of the project grows smaller.

(5) A FERC approval of a hydroelectric project may be in the form of a "license" for a limited term that is not to exceed 50 years and that may be renewed. The majority of the over 1,700 hydroelectric projects regulated by FERC are subject to limited term licenses. These licenses can apply to large hydroelectric projects such as the 15 Mile Falls Hydroelectric Project on the Connecticut River (291 MW) and to small projects such as the Gilman Dam on the Black River in Vermont (0.125 MW). Licensed projects may include "minor water power projects," which FERC defines as any existing or proposed water power project that would have a total installed generation capacity of 1.5 MW or less.

(6) A FERC approval of a hydroelectric project may be in the form of an “exemption,” under which the project is exempted from some requirements of the Federal Power Act, including the limited term, but there is still an extensive application and environmental review process. These exemptions therefore are approvals in perpetuity. There are two classes of hydroelectric license “exemptions” granted by FERC:

(A) Small hydropower projects, which are five MW or less, that will be built at an existing dam, or projects that utilize a natural water feature for head or an existing project that has a capacity of five MW or less and proposes to increase capacity.

(B) Conduit exemptions for generating capacities of 15 MW or less for nonmunicipal and 40 MW or less for a municipal project. The conduit must have been constructed primarily for purposes other than power production and be located entirely on nonfederal lands. In this context, “conduit” refers to a human-made water conveyance (e.g., an irrigation canal).

(7) In August 2010, FERC and the state of Colorado, through its energy office, entered into a memorandum of understanding “to streamline and simplify the authorization of small-scale hydropower projects.”

(8) In Vermont:

(A) The state energy office is the department of public service, which among other duties advances state energy policy pursuant to the direction provided by statute.

(B) The main agency engaged in environmental regulation is the agency of natural resources (ANR), the duties and expertise of which include science-based analysis of the impacts of projects on water quality, fish, and wildlife. When a FERC license or exemption is sought for a hydroelectric project in Vermont, ANR reviews the project and determines whether to issue a certification under the Clean Water Act, 33 U.S.C. § 1341, that the project will not violate water quality standards adopted under that act.

Sec. 2. MEMORANDUM OF UNDERSTANDING; SMALL

HYDROELECTRIC PROJECTS

(a) In consultation with the secretary of natural resources (the secretary), the commissioner of the department of public service (the commissioner) shall seek to enter into a memorandum of understanding (MOU) with the Federal Energy Regulatory Commission (FERC) for a program to expedite the procedures for FERC’s granting approvals for projects in Vermont that constitute small conduit hydroelectric facilities and small hydroelectric power

projects as defined in 18 C.F.R. § 4.30 (the MOU program). The commissioner also may seek to include minor water power projects, as defined by 18 C.F.R. § 4.30, in the MOU program. By July 15, 2012, the commissioner shall initiate with FERC the process of negotiating this MOU.

(b) In negotiating and entering into an MOU under this section, the commissioner in consultation with the secretary shall offer and agree to prescreening by the state of Vermont of hydroelectric projects participating in the MOU program.

(c) Prior to executing an MOU with FERC under this section, the commissioner shall submit a copy of the MOU, in its final form as the parties intend to execute it, to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy. The MOU may be submitted electronically to the office of legislative council, which shall distribute it to the members of these committees.

(d) In consultation with the secretary, the commissioner is authorized to sign an MOU under this section on behalf of the department of public service, the agency of natural resources, and other state agencies and departments involved in the review of proposed hydroelectric projects in Vermont.

(e) No later than January 15, 2014 and annually by each second January 15 thereafter, the commissioner shall submit a written report to the general assembly detailing the progress of the MOU program, including an identification of each hydroelectric project participating in the program. After five hydroelectric projects participating in the program are approved and commence operation, reports filed under this subsection shall evaluate and provide lessons learned from the program, including recommendations, if any, on how to improve procedures for obtaining approval of micro hydroelectric projects (100 kilowatts capacity or less). The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be submitted under this subsection.

(f) As necessary and appropriate, the commissioner and the secretary shall seek funding from available sources to support the MOU program under this section. Inception of the MOU program shall not be contingent on receipt of such funding.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Senate Proposal of Amendment Concurred in**H. 254**

The Senate proposed to the House to amend House bill, entitled

An act relating to consumer protection

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

Sec. 1. 9 V.S.A. chapter 63, subchapter 1C is added to read:

Subchapter 1C. Discount Membership Programs

§ 2470aa. DEFINITIONS

In this subchapter:

(1) “Billing information” means any data that enables a seller of a discount membership program to access a consumer’s credit or debit card, bank, or other account, but does not include the consumer’s name, e-mail address, telephone number, or mailing address. For credit card and debit card accounts, billing information includes the full account number, card type, and expiration date, and, if necessary, the security code. For accounts at a financial institution, “billing information” includes the full account number and routing number, and, if necessary, the name of the financial institution holding the account.

(2) A “discount membership program” is a program that entitles consumers to receive discounts, rebates, rewards, or similar incentives on the purchase of goods or services or both, in whole or in part, from any third party.

§ 2470bb. APPLICABILITY

A discount membership program is a good or service within the meaning of subsection 2451a(b) of this chapter. This subchapter applies only to persons who are regularly and primarily engaged in trade or commerce in this state in connection with offering or selling discount membership programs. This subchapter shall not apply to an electronic payment system, as defined in 9 V.S.A. § 2480o, or to a financial institution, as defined in 8 V.S.A. § 11101(32).

§ 2470cc. REQUIRED DISCLOSURES; CONSENT

(a) No person shall charge or attempt to charge a consumer for a discount membership program, or to renew a discount membership program beyond the term expressly agreed to by the consumer or the term permitted under section 2470ff of this title, whichever is shorter, unless:

(1) Before obtaining the consumer's billing information, the person has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including:

(A) A description of the types of goods and services on which a discount is available;

(B) The name of the discount membership program and the name and address of the seller of the program;

(C) The amount, or a good faith estimate, of the typical discount on each category of goods and services;

(D) The cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment;

(E) The right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free telephone number and e-mail address that can be used to cancel the membership;

(F) The maximum length of membership, as described in section 2470ff of this subchapter;

(G) In the event that the program is offered on the Internet through a link or referral from another business's website, the fact that the seller is not affiliated with that business;

(H) The fact that periodic notices of the program billings will be e-mailed or mailed to the consumer, as the case may be, consistent with section 2470dd of this title; and

(2) The person has received express informed consent for the charge from the consumer whose credit or debit card, bank, or other account will be charged, by:

(A) Obtaining from the consumer:

(i) the consumer's billing information; and

(ii) the consumer's name and address and a means to contact the consumer; and

(B) Requiring the consumer to perform an additional affirmative action, such as clicking on an online confirmation button, checking an online box that indicates the consumer's consent to be charged the amount disclosed, or expressly giving consent over the telephone.

(b) A person who sells discount membership programs shall retain evidence of a consumer's express informed consent for at least three years after the consent is given.

§ 2470dd. PERIODIC NOTICES

(a) A person who periodically charges a consumer for a discount membership program shall send the consumer a notice of the charge no less frequently than every three months from the date of initial enrollment that clearly and conspicuously discloses:

(1) A description of the program;

(2) The name of the discount membership program and the name and address of the seller of the program;

(3) The cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment;

(4) The right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free number and e-mail address that can be used to cancel the membership; and

(5) The maximum length of membership, as described in section 2470ff of this subchapter.

(b) The notice specified in subsection (a) of this section:

(1) Shall be sent:

(A) To the consumer's last known e-mail address, if the consumer enrolled in the discount membership program online or by e-mail, with the subject line, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words, provided that the sender takes reasonable steps to verify that the e-mail has been opened; or

(B) Otherwise by first-class mail to the consumer's last known mailing address, with the heading on the enclosure and outside envelope, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words; and

(2) Shall not include any solicitation or advertising.

§ 2470ee. CANCELLATION AND TERMINATION

(a) In addition to any other right to revoke an offer, a consumer may cancel the purchase of a discount membership program until midnight on the 30th day after the date the consumer has given express informed consent to be charged

for the program. If the consumer cancels within the 30-day period, the seller of the discount membership program shall, within ten days of receiving the notice of cancellation, provide a full refund to the consumer.

(b) Notice of cancellation shall be deemed given when deposited in a mailbox properly addressed and postage prepaid or when e-mailed to the e-mail address of the seller of the discount membership program.

(c) In addition to the right to cancel described in this subchapter, a consumer may terminate a discount membership program at any time by providing notice to the seller by one of the methods described in this section. In that case, the consumer shall not be obligated to make any further payments under the program and shall not be entitled to any discounts under the program for any period of time after the last month for which payment has been made.

(d) If the seller of a discount membership program cancels the program for any reason other than nonpayment by the consumer, the seller shall make pro rata reimbursement to the consumer of all periodic charges paid by the consumer for periods of time after cancellation. Prior to such cancellation, the seller shall first provide reasonable notice and an explanation of the cancellation in writing to the consumer.

§ 2470ff. MAXIMUM LENGTH OF PLAN

No person shall sell, or offer for sale, a discount membership program lasting longer than 18 months.

§ 2470gg. BILLING INFORMATION

No person who offers or sells discount membership programs shall obtain billing information relating to a consumer except directly from the consumer.

§ 2470hh. VIOLATIONS

(a) A violation of this subchapter is deemed to be a violation of section 2453 of this title.

(b) The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as is provided under subchapter 1 of this chapter.

Sec. 2. 9 V.S.A. chapter 63 is amended to read:

CHAPTER 63. CONSUMER FRAUD PROTECTION

* * *

§ 2453. PRACTICES PROHIBITED; ANTITRUST AND CONSUMER FRAUD PROTECTION

* * *

§ 2461e. REQUIREMENTS FOR GUARANTEED PRICE PLANS AND PREPAID CONTRACTS

* * *

(d) Private right of action under consumer ~~fraud~~ protection act. In addition to the remedies set forth in sections 2458 and 2461 of this title, a home heating oil, kerosene, or liquefied petroleum gas dealer may bring an action against its heating oil, kerosene, or liquefied petroleum gas suppliers for failing to honor its contract with the home heating oil, kerosene, or liquefied petroleum gas dealer. The home heating oil, kerosene, or liquefied petroleum gas dealer bringing the action may recover all remedies available to consumers under subsection 2461(b) of this title.

* * *

§ 2480q. PENALTIES

(a) The following penalties shall apply to violations of this subchapter:

* * *

(3) A violation of section 2480p of this subchapter shall be deemed a violation of ~~chapter 63~~ section 2453 of this title, ~~the Consumer Fraud Act~~. The attorney general has the same authority to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under subchapter 1 ~~of chapter 63~~ of this title chapter.

* * *

Sec. 3. REDESIGNATION OF TERM "CONSUMER FRAUD" TO READ "CONSUMER PROTECTION"

(a) The legislative council, under its statutory revision authority pursuant to 2 V.S.A. § 424, is directed to delete the term "consumer fraud" and to insert in lieu thereof the term "consumer protection" wherever it appears in each of the following sections: 7 V.S.A. § 1010; 8 V.S.A. §§ 2706, 2709, and 2764; 9 V.S.A. § 2471; 18 V.S.A. §§ 1511, 1512, 4086, 4631, 4633, 4634, and 9473; 20 V.S.A. § 2757; and 33 V.S.A. §§ 1923 and 2010; and in any other sections as appropriate.

(b) Notwithstanding the provisions of 3 V.S.A. chapter 25, the attorney general shall have the authority to delete the term "consumer fraud" and to insert in lieu thereof the term "consumer protection" wherever it appears in the

attorney general's rules, regulations, and procedures and shall exercise such authority upon passage of this act as he or she deems to be necessary, appropriate, and consistent with the purposes of this section.

Sec. 4. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62: PROTECTION OF PERSONAL INFORMATION

§ 2430. DEFINITIONS

The following definitions shall apply throughout this chapter unless otherwise required:

* * *

(5)(A) ~~“Personal~~ Personally identifiable information” means an individual’s first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) Social Security number;

(ii) Motor vehicle operator’s license number or nondriver identification card number;

(iii) Financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords;

(iv) Account passwords or personal identification numbers or other access codes for a financial account.

(B) ~~“Personal~~ Personally identifiable information” does not mean publicly available information that is lawfully made available to the general public from federal, state, or local government records.

* * *

(8)(A) “Security breach” means unauthorized acquisition ~~or access~~ of ~~computerized~~ electronic data or a reasonable belief of an unauthorized acquisition of electronic data that compromises the security, confidentiality, or integrity of ~~personal~~ a consumer’s personally identifiable information maintained by the data collector.

(B) “Security breach” does not include good faith but unauthorized acquisition ~~or access~~ of ~~personal~~ personally identifiable information by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the ~~personal~~ personally identifiable information is not

used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

§ 2435. NOTICE OF SECURITY BREACHES

(a) This section shall be known as the Security Breach Notice Act.

(b) Notice of breach.

(1) Except as set forth in subsection (d) of this section, any data collector that owns or licenses computerized ~~personal~~ personally identifiable information that includes personal information concerning a consumer shall notify the consumer that there has been a security breach following discovery or notification to the data collector of the breach. Notice of the security breach shall be made in the most expedient time possible and without unreasonable delay, but not later than 45 days after the discovery or notification, consistent with the legitimate needs of the law enforcement agency, as provided in ~~subdivision~~ subdivisions (3) and (4) of this subsection, or with any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) Any data collector that maintains or possesses computerized data containing ~~personal~~ personally identifiable information of a consumer that the ~~business data collector~~ does not own or license or any data collector that acts or conducts business in Vermont that maintains or possesses records or data containing ~~personal~~ personally identifiable information that the data collector does not own or license shall notify the owner or licensee of the information of any security breach immediately following discovery of the breach, consistent

with the legitimate needs of law enforcement as provided in ~~subdivision~~ subdivisions (3) and (4) of this subsection.

(3) A data collector or other entity subject to this subchapter, other than a person or entity licensed or registered with the department of financial regulation under Title 8 or this title, shall provide notice of a breach to the attorney general's office as follows:

(A)(i) The data collector shall notify the attorney general of the date of the security breach and the date of discovery of the breach and shall provide a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency as provided in subdivisions (3) and (4) of this subsection, of the data collector's discovery of the security breach or when the data collector provides notice to consumers pursuant to this section, whichever is sooner.

(ii) Notwithstanding subdivision (A)(i) of this subdivision (b)(3), a data collector who, prior to the date of the breach, on a form and in a manner prescribed by the office of the attorney general, had sworn in writing to the attorney general that it maintains written policies and procedures to maintain the security of personally identifiable information and respond to a breach in a manner consistent with Vermont law shall notify the attorney general of the date of the security breach and the date of discovery of the breach and shall provide a description of the breach prior to providing notice of the breach to consumers pursuant to subdivision (1) of this subsection.

(iii) If the date of the breach is unknown at the time notice is sent to the attorney general, the data collector shall send the attorney general the date of the breach as soon as it is known.

(iv) Unless otherwise ordered by a court of this state for good cause shown, a notice provided under this subdivision (3)(A) shall not be disclosed to any person other than the authorized agent or representative of the attorney general, a state's attorney, or another law enforcement officer engaged in legitimate law enforcement activities without the consent of the data collector.

(B)(i) When the data collector provides notice of the breach pursuant to subdivision (1) of this subsection (b), the data collector shall notify the attorney general of the number of Vermont consumers affected, if known to the data collector, and shall provide a copy of the notice provided to consumers under subdivision (1) of this subsection (b).

(ii) The data collector may send to the attorney general a second copy of the consumer notice, from which is redacted the type of personally

identifiable information that was subject to the breach, and which the attorney general shall use for any public disclosure of the breach.

(4) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation, or a national or homeland security investigation or jeopardize public safety or national or homeland security interests. In the event law enforcement makes the request in a manner other than in writing, the data collector shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data collector when the law enforcement agency no longer believes that notification may impede a law enforcement investigation, or a national or homeland security investigation or jeopardize public safety or national or homeland security interests. The data collector shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

~~(4)~~(5) The notice to a consumer shall be clear and conspicuous. The notice shall include a description of each of the following, if known to the data collector:

(A) The incident in general terms.

(B) The type of ~~personal~~ personally identifiable information that was subject to the ~~unauthorized access or acquisition~~ security breach.

(C) The general acts of the ~~business~~ data collector to protect the ~~personal~~ personally identifiable information from further ~~unauthorized access or acquisition~~ security breach.

(D) A ~~toll-free~~ telephone number, toll-free if available, that the consumer may call for further information and assistance.

(E) Advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports.

(F) The approximate date of the security breach.

~~(5)~~(6) For purposes of this subsection, notice to consumers may be provided by one of the following methods:

* * *

(h) Vermont law enforcement agencies, including the department of public safety, shall not be considered a data collector. Except as provided in subdivisions (b)(2) and (b)(3) of this section, Vermont law enforcement agencies, including the department of public safety, shall be exempt from this subchapter.

Sec. 5. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

(a) In addition to the duties expressly set forth elsewhere by law the secretary shall:

* * *

(9) Submit to the general assembly concurrent with the governor's annual budget request required under 32 V.S.A. § 306, a strategic plan for information technology and information security which outlines the significant deviations from the previous year's ~~information technology~~ plan, and which details the plans for information technology activities of state government for the following fiscal year as well as the administration's financing recommendations for these activities. For purposes of this section, "information security" shall mean protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide integrity, confidentiality, and availability. All such plans shall be reviewed and approved by the commissioner of information and innovation prior to being included in the governor's annual budget request. The plan shall identify the proposed sources of funds for each project identified. The plan shall also contain a review of the state's information technology and information security and an identification of priority projects by agency. The plan shall include, for any proposed information technology activity with a cost in excess of \$100,000.00:

(A) a life-cycle costs analysis including planning, purchase and development of applications, the purchase of hardware and the ~~on-going~~ ongoing operation and maintenance costs to be incurred over the expected life of the systems; and a cost-benefit analysis which shall include acquisition costs as well as operational and maintenance costs over the expected life of the system;

(B) the cost savings ~~and/or~~ or service delivery improvements or both which will accrue to the public or to state government;

(C) a statement identifying any impact of the proposed new computer system on the privacy or disclosure of individually identifiable information;

(D) a statement identifying costs and issues related to public access to nonconfidential information;

(E) a statewide budget for all information technology activities with a cost in excess of ~~\$100,000~~ \$100,000.00.

(10) The secretary shall annually submit to the general assembly a five-year information technology and information security plan which indicates the anticipated information technology activities of the legislative, executive, and judicial branches of state government. For purposes of this section, "information technology activities" shall mean:

(A) the creation, collection, processing, storage, management, transmission, or conversion of electronic data, documents, or records;

(B) the design, construction, purchase, installation, maintenance, or operation of systems, including both hardware and software, which perform these activities.

* * *

Sec. 6. 22 V.S.A. § 901 is amended to read:

§ 901. DEPARTMENT OF INFORMATION AND INNOVATION

The department of information and innovation, created in 3 V.S.A. § 2283b, shall have all the responsibilities assigned to it by law, including the following:

(1) to provide direction and oversight for all activities directly related to information technology and information security, including telecommunications services, information technology equipment, software, accessibility, and networks in state government. For purposes of this section, "information security" is defined as in 3 V.S.A. § 2222(a)(9);

(2) to manage GOVnet;

(3) to review all information technology and information security requests for proposal in accordance with agency of administration policies;

(4) to review and approve information technology activities in all departments with a cost in excess of \$100,000.00, and annually submit to the general assembly a strategic plan and a budget for information technology and information security as required of the secretary of administration by 3 V.S.A. § 2222(a)(9). For purposes of this section, "information technology activities" is defined in 3 V.S.A. § 2222(a)(10);

(5) to administer the independent review responsibilities of the secretary of administration described in 3 V.S.A. § 2222(g);

(6) to perform the responsibilities of the secretary of administration under 30 V.S.A. § 227b;

(7) to administer communication, information, and technology services, which are transferred from the department of buildings and general services;

(8) to inventory technology assets within state government;

(9) to coordinate information technology and information security training within state government;

* * *

(11) to provide technical support and services to the department of human resources and of finance and management for the statewide central accounting and encumbrance system, the statewide budget development system, the statewide human resources management system, and other agency of administration systems as may be assigned by the secretary; and

(12) not later than July 1, 2013, to adopt rules requiring the auditing and updating of state websites.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

Which proposal of amendment was considered and concurred in.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 183

Rep. Fagan of Rutland City, for the committee on Fish, Wildlife & Water Resources, to which had been referred Senate bill, entitled

An act relating to the testing of potable water supplies

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The U.S. Environmental Protection Agency and the Vermont department of health estimate that 40 percent of Vermont residents obtain drinking water from groundwater sources.

(2) Owners of certain properties in the state with potable water supplies from groundwater currently are not required to test the groundwater source.

(3) In adults and especially in children, consumption of contaminated groundwater can cause serious health effects, such as digestive problems, kidney problems, blue baby syndrome, and brain damage.

(4) The state lacks comprehensive groundwater quality data that could be used to develop mapping and a clearinghouse identifying groundwater contamination locations.

(5) To help mitigate the potential health effects of consumption of contaminated groundwater, the state should conduct education and outreach regarding the need for property owners to test the quality of groundwater used as potable water.

(6) The state should utilize tests of groundwater sources to identify groundwater contamination in the state so that the department of health can recommend potential treatment options.

Sec. 2. 10 V.S.A. § 1396 is amended to read:

§ 1396. RECORDS AND REPORTS

(a) Each licensee shall keep accurate records and file a report with the department and well owner on each water well constructed or serviced, including but not limited to the name of the owner, location, depth, character of rocks or earth formations and fluids encountered, and other reasonable and appropriate information the department may, by rule, require.

(b) The reports required to be filed under subsection (a) of this section shall be on forms provided by the department as follows:

(1) Each licensee classified as a water well driller shall submit a well completion report within 90 days after completing the construction of a water well.

(2) Each licensee classified as a monitoring well driller shall submit a monitoring well completion or closure report or approved equivalent within 90 days after completing the construction or closure of a monitoring well. Reporting on the construction of a monitoring well shall be limited to information obtained at the time of construction and need not include the work products of others. The filing of a monitoring well completion or closure report shall be delayed for one or more six-month periods from the date of construction upon the filing of a request form provided by the department which is signed by both the licensee and well owner.

(3), (4) [Repealed.]

(c) No report shall be required to be filed with the department if the well is hand driven or is dug by use of a hand auger or other manual means.

(d) On or after January 1, 2013, a licensee drilling or developing a new water well for use as a potable water supply, as that term is defined in subdivision 1972(6) of this title, shall provide the owner of the property to be served by the groundwater source informational materials developed by the department of health regarding:

(1) the potential health effects of the consumption of contaminated groundwater; and

(2) recommended tests to detect specific contaminants, such as arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate or nitrite, fluoride, and manganese.

Sec. 3. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act ~~if such laboratory meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent; and~~

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) The commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction or condition of the certificate; or

(C) violated any statute, rule or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the board under section 128 of this title.

* * *

(f) A laboratory certified to conduct testing of water supplies from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), shall submit the results of groundwater analyses to the department of health and the agency of natural resources in a format required by the department of health.

Sec. 4. 27 V.S.A. § 616 is added to read:

§ 616. GROUNDWATER SOURCE TESTING; DISCLOSURE OF
INFORMATIONAL MATERIAL

(a) Disclosure of potable water supply informational material. For a contract for the conveyance of real property with a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), that is not served by a public water system, as that term is defined in 10 V.S.A. § 1671(5), executed on or after January 1, 2013, the seller shall, within 72 hours of the execution provide the buyer with informational materials developed by the department of health regarding:

(1) the potential health effects of the consumption of contaminated groundwater; and

(2) the availability of test kits provided by the department of health.

(b) Marketability of title. Noncompliance with the requirements of this section shall not affect the marketability of title of a property.

Sec. 5. DEPARTMENT OF HEALTH; EDUCATION AND OUTREACH
ON SAFE DRINKING WATER

The department of health, after consultation with the agency of natural resources, shall revise and update its education and outreach materials regarding the potential health effects of contaminants in groundwater sources of drinking water in order to improve citizen access to such materials and to increase awareness of the need to conduct testing of groundwater sources. In revising and updating its education and outreach materials, the department shall update the online safe water resource guide by incorporating the most current information on the health effects of contaminants, treatment of

contaminants, and causes of contamination and by directly linking users to the department of health contaminant fact sheets.

Sec. 6. EFFECTIVE DATE

This act shall take effect on January 1, 2013.

The bill, having appeared on the Calendar one day for notice, was taken up, and read the second time.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Fish, Wildlife and Water Resources? **Rep. Fagan of Rutland City** moved to amend the recommendation of proposal of amendment offered by the committee on Fish, Wildlife and Water Resources as follows:

In Sec. 5 by designating the existing language as subsection (a) and by adding subsection (b) to read:

(b) The department of health, after consultation with representatives of licensed real estate brokers, as that term is defined in 26 V.S.A. § 2211, shall propose language to be added to a seller's property information report regarding the requirement under 27 V.S.A. § 616 that a seller of real property with a potable water supply that is not served by a public water system provide the buyer informational material regarding the potential health effects of the consumption of contaminated groundwater and the availability of test kits provided by the department of health.

Which was agreed and the report of the committee on Fish, Wildlife and Warer Resources, as amended, was agreed to and third reading was ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 202

Rep. Deen of Westminster, for the committee on Fish, Wildlife & Water Resources, to which had been referred Senate bill, entitled

An act relating to regulation of flood hazard areas, river corridors, and stream alteration

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. 10 V.S.A. chapter 32 is amended to read:

CHAPTER 32. FLOOD HAZARD AREAS

§ 751. PURPOSE

The purpose of this chapter is to minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding; to ensure that the development of the flood hazard areas of this state is accomplished in a manner consistent with the health, safety and welfare of the public; ~~to provide state assistance to local government units in management of flood hazard areas;~~ to coordinate federal, state, and local management activities for flood hazard areas; to encourage local government units to manage flood hazard areas and other flood-prone lands; ~~to provide state assistance to local government units in management of flood-prone lands;~~ to comply with National Flood Insurance Program requirements for the regulation of development; to authorize adoption of state rules for management of uses exempt from municipal regulation in a flood hazard area; to maintain the wise agricultural use of flood-prone lands consistent with the National Flood Insurance Program; to carry out a comprehensive statewide flood hazard area management program for the state in order to ~~make the state and units of local government eligible~~ ensure eligibility for flood insurance under the requirements of the ~~federal department of housing and urban development in administering Title XIII of the Housing and Urban Development Act of 1968~~ National Flood Insurance Program.

§ 752. DEFINITIONS

For the purpose of this chapter:

(1) “Agency” means the agency of natural resources.

(2) “Development,” for the purposes of flood hazard area management and regulation, shall have the same meaning as “development” under 44 C.F.R. § 59.1.

(3) “Flood hazard area” means an area which would be inundated in a flood of such severity that the flood would be statistically likely to occur once in every hundred years. In appropriate circumstances this might be the 1927 or the 1973 flood. In delineating any flood hazard area for the one hundred year flood based upon prior floods, flood control devices such as, but not limited to dams, canals, and channel work should be considered in the delineation shall have the same meaning as “area of special flood hazard” under 44 C.F.R. § 59.1.

~~(3)~~(4) “Flood proofing” shall have the same meaning as “flood proofing” under 44 C.F.R. § 59.1.

~~(5)~~ “Floodway” means the channel of a watercourse and adjacent land areas which are required to carry and discharge the one hundred year flood within a regulated flood hazard area without substantially increasing the flood heights delineation shall have the same meaning as “regulatory floodway” under 44 C.F.R. § 59.1.

~~(4)~~ “Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures, primarily for the reduction or elimination of flood damage to lands, water and sanitary facilities, structures and contents of buildings delineation.

~~(5)~~(6) “Legislative body” means the board of selectmen selectboard, trustees, mayor, city council, and board of aldermen alderboard of a municipality.

~~(6)~~(7) “Municipality” means any town, city, or incorporated village.

~~(8)~~ “Uses exempt from municipal regulation” means land use or activities that are exempt from municipal land use regulation under 24 V.S.A. chapter 117.

~~(7)~~(9) “Obstruction” means any natural or artificial condition including but not limited to, real estate which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or so situated that the flow of the water might carry it downstream to the damage of life or property “National Flood Insurance Program” means the National Flood Insurance Program under 42 U.S.C. chapter 50 and implementing federal regulations in 44 C.F.R. parts 59 and 60.

~~(8)~~(10) “Regional planning commission” means the regional planning commission of which a municipality is a member or would be a member based upon its location.

~~(11)~~ “River corridor” means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in section 1422 of this title, and for minimization of fluvial erosion hazards, as delineated by the agency of natural resources in accordance with river corridor protection procedures.

~~(9)~~(12) “Secretary” means the secretary of the agency of natural resources or the secretary’s duly authorized representative.

§ 753. FLOOD HAZARD AREAS; COOPERATION; MAPPING

(a) Cooperation to secure flood insurance. ~~To meet the objective of this chapter and the requirements of 24 V.S.A. § 4412, the designation and management of flood hazard areas shall adhere to the following procedure and schedule.—All~~ The secretary and all municipalities, regional planning commissions, and departments and agencies of state government shall mutually cooperate to these ends achieve the purposes of this chapter and to secure flood plain insurance for municipalities and the state of Vermont. All correspondence sent to a municipality pursuant to this chapter shall be sent to the municipal clerk, the municipal manager, if one exists, the legislative body, and the planning commission, and the conservation commission, if one exists. Copies of this correspondence shall be sent to the regional planning commission, and the agency of commerce and community development, and the state planning office.

(b) Notice of designation of flood hazard areas; maps. The secretary shall, as the information becomes available, provide each municipality with a designation of flood hazard areas. The designation shall include a map or maps.

(c) Procedure to authorize review of municipal permit applications. The secretary shall establish a procedure for authorizing a representative of a municipality or a regional planning commission to conduct the review required under 24 V.S.A. § 4424(a)(2)(D), including eligibility requirements for authorization to conduct permit application review and an approved process or list of approved certifications that the secretary shall accept as proof of expertise in the field of floodplain management.

§ 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM

MUNICIPAL REGULATION

(a) Rulemaking authority.

(1) On or before March 15, 2014, the secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for the issuance and enforcement of permits applicable to uses exempt from municipal regulation that are located within a flood hazard area of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. chapter 117.

(2) The secretary shall not adopt rules under this subsection that regulate agricultural activities without the consent of the secretary of agriculture, food and markets, provided that the secretary of agriculture, food and markets shall not withhold consent under this subdivision when lack of such consent would result in the state's noncompliance with the National Flood Insurance Program.

(3) The secretary shall seek the guidance of the Federal Emergency Management Agency in developing and drafting the rules required by this section in order to ensure that the rules are sufficient to meet eligibility requirements for the National Flood Insurance Program.

(b) Required rulemaking content. The rules shall:

(1) set forth the requirements necessary to ensure uses exempt from municipal regulation are regulated by the state in order to comply with the regulatory obligations set forth under the National Flood Insurance Program.

(2) be designed to ensure that the state and municipalities meet community eligibility requirements for the National Flood Insurance Program.

(3) require that the secretary provide notice to a municipality in which a use exempt from municipal regulation will occur of an application received under this section and a copy of the permit issued, unless a use is authorized to occur without notification of or reporting to the secretary.

(c) Discretionary rulemaking. The rules may establish requirements that exceed the requirements of the National Flood Insurance Program for uses exempt from municipal regulation.

(d) General permit. The rules authorized by this section may establish requirements for a general permit to implement the requirements of this section, including authorization under the general permit to conduct a specified use exempt from municipal regulation without notifying or reporting to the secretary or an agency delegated under subsection (i) of this section.

(e) Consultation with interested parties. Prior to submitting the rules required by this section to the secretary of state under 3 V.S.A. § 838, the secretary shall solicit the recommendations of and consult with affected and interested persons and entities such as: the secretary of commerce and community development; the secretary of agriculture, food and markets; the secretary of transportation; the commissioner of financial regulation; representatives of river protection interests; representatives of fishing and recreational interests; representatives of the banking industry; representatives of the agricultural community; the regional planning commissions; municipal interests; and representatives of municipal associations.

(f) Permit requirement. Beginning July 1, 2014, no person shall commence or conduct a use exempt from municipal regulation in a flood hazard area in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 without a permit issued under the rules required under subsection (a) of this section by the secretary or by a state agency delegated permitting authority under subsection (g) of this section.

(g) Delegation.

(1) The secretary may delegate to another state agency the authority to implement the rules adopted under this section, to issue a permit under subsection (h) of this section, and to enforce the rules and a permit.

(2) A memorandum of understanding shall be entered into between the secretary and a delegated state agency for the purpose of specifying implementation of requirements of this section and the rules adopted under this section, issuance of a permit or coverage under a general permit under this section, and enforcement of the rules and permit required by this section.

(3) Prior to entering a memorandum of understanding, the secretary shall post the proposed memorandum of understanding on its website for 30 days for notice and comment. When the memorandum of understanding is posted, it shall include a summary of the proposed memorandum; the name, telephone number, and address of a person able to answer questions and receive comments on the proposal; and the deadline for receiving comments. A final copy of a memorandum of understanding entered into under this section shall be sent to the chairs of the house and senate committees on natural resources and energy, the house committee on fish, wildlife and water resources, and any other committee that has jurisdiction over an agency that is a party to the memorandum of understanding.

(h) Municipal authority. This section and the rules adopted under it shall not prevent a municipality from adopting substantive requirements for development in a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 that are more stringent than the rules required by this section, provided that the bylaw or ordinance shall not apply to uses exempt from municipal regulation.

§ 755. MUNICIPAL EDUCATION; MODEL FLOOD HAZARD AREA BYLAW OR ORDINANCE

(a) Education and assistance. The secretary, in consultation with regional planning commissions, shall provide ongoing education, technical assistance, and guidance to municipalities regarding the requirements under 24 V.S.A. chapter 117 necessary for compliance with the National Flood Insurance Program.

(b) Model flood hazard area bylaw or ordinance. The secretary shall create and make available to municipalities a model flood hazard area bylaw or ordinance for potential adoption by municipalities pursuant to 24 V.S.A. chapter 117 or 24 V.S.A. § 2291. The model bylaw or ordinance shall set forth the minimum provisions necessary to meet the requirements of the National

Flood Insurance Program. The model bylaw may include alternatives that exceed the minimum requirements for compliance with the National Flood Insurance Program in order to allow a municipality to elect whether it wants to adopt the minimum requirement or an alternate requirement that further minimizes the risk of harm to life, property, and infrastructure from flooding.

(c) Assistance to municipalities with no flood hazard area bylaw or ordinance. The secretary, in consultation with municipalities, municipal organizations, and regional planning commissions, shall provide education and technical assistance to municipalities that lack a flood hazard area bylaw or ordinance in order to encourage adoption of a flood hazard area bylaw or ordinance that qualifies the municipality for the National Flood Insurance Program.

* * * Stream Alteration; Emergency Activities * * *

Sec. 2. 10 V.S.A. § 1002 is amended to read:

§ 1002. DEFINITIONS

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) “Artificial regulation of stream flow” means the intermittent or periodic manipulation of water levels and the intermittent or periodic regulation of discharge of water into the stream below the dam.

(2) “Banks” means that land area immediately adjacent to the bed of the stream, which is essential in maintaining the integrity thereof.

(3) “Bed” means the maximum area covered by waters of the stream for not less than 15 consecutive days in one year.

(4) “Board” means the natural resources board.

(5) “Cross section” means the entire channel to the top of the banks.

(6) “Dam” applies to any artificial structure on a stream or at the outlet of a pond or lake, which is utilized for holding back water by ponding or storage together with any penstock, flume, piping or other facility for transmitting water downstream to a point of discharge, or for diverting water from the natural watercourse to another point for utilization or storage.

(7) “Department” means the department of environmental conservation.

(8) ~~{Repealed.}~~ “Instream material” means:

(A) all gradations of sediment from silt to boulders;

(B) ledge rock; or

(C) large woody debris in the bed of a watercourse or within the banks of a watercourse.

(9) "Person" means any individual; partnership; company; corporation; association; unincorporated association; joint venture; trust; municipality; the state of Vermont or any agency, department, or subdivision of the state, any federal agency, or any other legal or commercial entity.

(10) "Watercourse" means any perennial stream. "Watercourse" shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

(11) "Secretary" means the secretary of the agency of natural resources, or the secretary's duly authorized representative.

(12) "Berm" means a linear fill of earthen material on or adjacent to the bank of a watercourse that constrains waters from entering a flood hazard area or river corridor, as those terms are defined in subdivisions 752(3) and (11) of this title.

(13) "Large woody debris" means any piece of wood within a watercourse with a diameter of 10 or more inches and a length of 10 or more feet that is detached from the soil where it grew.

Sec. 3. 10 V.S.A. § 1021 is amended to read:

§ 1021. ALTERATION PROHIBITED; EXCEPTIONS

(a) A person shall not change, alter, or modify the course, current, or cross section of any watercourse or of designated outstanding resource waters, within or along the boundaries of this state either by movement, fill, or ~~by~~ excavation of ten cubic yards or more of instream material in any year, unless authorized by the secretary. A person shall not establish or construct a berm in a flood hazard area or river corridor, as those terms are defined in subdivisions 752(3) and (11) of this title, unless permitted by the secretary or constructed as an emergency protective measure under subsection (b) of this section.

(b) This subchapter shall not apply to emergency protective measures necessary to preserve life or to prevent severe imminent damage to public or private property, or both. The protective measures shall:

(1) be limited to the minimum amount necessary to remove imminent threats to life or property,~~shall;~~

(2) have prior approval from a member of the municipal legislative body~~and shall;~~

(3) be reported to the secretary by the legislative body within ~~72~~ 24 hours after the onset of the emergency; and

(4) be implemented in a manner consistent with the rules adopted under section 1027 of this title regarding stream alteration during emergencies.

* * *

Sec. 4. 10 V.S.A. § 1023 is amended to read:

§ 1023. INVESTIGATION, PERMIT

(a) Upon receipt of an application, the secretary shall cause an investigation of the proposed change to be made. Prior to making a decision, a written report shall be made by the secretary concerning the effect of the proposed change on the watercourse. The permit shall be granted, subject to such conditions determined to be warranted, if it appears that the change:

(1) will not adversely affect the public safety by increasing flood or fluvial erosion hazards;

(2) will not significantly damage fish life or wildlife;

(3) will not significantly damage the rights of riparian owners; and

(4) in case of any waters designated by the board as outstanding resource waters, will not adversely affect the values sought to be protected by designation.

(b) The reasons for the action taken under this section shall be set forth in writing to the applicant. Notice of the action of the secretary shall also be sent to the selectmen of the town in which the proposed change is located, and to each owner of property which abuts or is opposite the land where the alteration is to take place.

(c) If the local legislative body and planning commission determine in writing by majority vote of each that ~~gravel~~ instream material in a watercourse is threatening life or property, due to increased potential for flooding, and that the removal of ~~gravel~~ instream material is necessary to prevent the threat to life or property, and if a complete permit application has been submitted to the secretary, requesting authority to remove ~~gravel~~ instream material in the minimum amount necessary to remove threats to life or property, the local legislative body and the planning commission may request an expedited review of the complete permit application by notifying the secretary and providing copies of their respective decisions. If the secretary fails to approve or deny the application within 45 calendar days of receipt of notice of the decisions, the application shall be deemed approved and a permit shall be deemed to have

been granted. ~~Gravel~~ Instream material removed shall be used only for public purposes, and cannot be sold, traded, or bartered. The fact that an application for a permit has been filed under this subsection shall not limit the ability to take emergency measures under subsection 1021(b) of this title. For the purposes of section 1024 of this title, if a permit has been deemed to have been granted under this subsection, that permit shall constitute a decision of the secretary.

(d)(1) The secretary shall conduct training programs or seminars regarding how to conduct stream alteration, water quality review, stormwater discharge, fish and wildlife habitat preservation, and wastewater discharge activities necessary during:

(A) a state of emergency declared under 20 V.S.A. chapter 1;

(B) flooding; or

(C) other emergency conditions that pose an imminent risk to life or a risk of damage to public or private property.

(2) The secretary shall make the training programs or seminars available to agency employees in an agency division other than the watershed management division, employees of other state and federal agencies, regional planning commission members and employees, municipal officers and employees, and state, municipal, and private contractors.

(f) The secretary is authorized to enter into reciprocal mutual aid agreements or compacts with other states to assist the secretary and the state in addressing watershed, river management, and transportation system issues that arise when a state of emergency is declared under 20 V.S.A. chapter 1.

Sec. 5. 10 V.S.A. § 1027 is added to read:

§ 1027. RULEMAKING; EMERGENCY PERMIT

(a) The secretary may adopt rules to implement the requirements of this subchapter.

(b) The secretary shall adopt rules regarding the permitting of stream alteration activities under this subchapter during a state of emergency declared under 20 V.S.A. chapter 1 or during flooding or other emergency conditions that pose an imminent risk to life or a risk of damage to public or private property. Any rule adopted under this subsection shall comply with National Flood Insurance Program requirements. A rule adopted under this subsection shall include a requirement that an activity receive an individual stream alteration emergency permit or receive coverage under a general stream alteration emergency permit.

(1) A rule adopted under this subsection shall establish:

(A) criteria for coverage under an individual permit and criteria for coverage under a general emergency permit;

(B) criteria for different categories of activities covered under a general emergency permit, including the construction of temporary berms as emergency protective measures;

(C) requirements for public notification of permitted activities, including notification after initiation or completion of a permitted activity;

(D) requirements for coordination with state and municipal authorities; and

(E) requirements that the secretary document permitted activity, including, at a minimum, requirements for documenting permit terms, documenting permit duration, and documenting the nature of an activity when the rules authorize notification of the secretary after initiation or completion of the activity.

(2) A rule adopted under this section may:

(A) establish reporting requirements for categories of activities;

(B) authorize an activity that does not require reporting to the secretary; or

(C) authorize an activity that requires reporting to the secretary after initiation or completion of an activity.

Sec. 6. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

* * *

(k) The secretary may adopt rules regulating stormwater discharges and stormwater infrastructure repair or maintenance during a state of emergency declared under 20 V.S.A. chapter 1 or during flooding or other emergency conditions that pose an imminent risk to life or a risk of damage to public or private property. Any rule adopted under this subsection shall comply with National Flood Insurance Program requirements. A rule adopted under this subsection shall include a requirement that an activity receive an individual stormwater discharge emergency permit or receive coverage under a general stormwater discharge emergency permit.

(1) A rule adopted under this subsection shall establish:

(A) criteria for coverage under an individual or general emergency permit;

(B) criteria for different categories of activities covered under a general emergency permit;

(C) requirements for public notification of permitted activities, including notification after initiation or completion of a permitted activity;

(D) requirements for coordination with state and municipal authorities;

(E) requirements that the secretary document permitted activity, including, at a minimum, requirements for documenting permit terms, documenting permit duration, and documenting the nature of an activity when the rules authorize notification of the secretary after initiation or completion of the activity.

(2) A rule adopted under this section may:

(A) establish reporting requirements for categories of activities;

(B) authorize an activity that does not require reporting to the secretary; or

(C) authorize an activity that requires reporting to the secretary after initiation or completion of an activity.

Sec. 6a. REPORT ON USE OF VOLUNTARY STORMWATER MANAGEMENT CREDITS FOR HIGH ELEVATION PROJECTS

(a) ANR report on voluntary stormwater management credits. On or before January 15, 2014, the secretary of natural resources shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding the effectiveness of the use of voluntary stormwater management credits to permit discharges of stormwater from renewable energy projects located at an elevation above 1,500 feet. The report shall:

(1) Summarize available national data regarding the efficacy of alternative stormwater treatment practices similar to the voluntary stormwater management credits;

(2) Evaluate the efficacy of the science and design of the management practices authorized under the voluntary stormwater management credits, including the impact of management practices authorized under the voluntary stormwater management credits on the vegetation and trees, fragile

ecosystems, shallow soils, and sensitive streams found in high-elevation settings; and

(3) Recommend whether the voluntary stormwater management credits should be available for the permitting of stormwater discharges from renewable energy project sites located at elevations above 1,500 feet.

(4) Analyze or estimate if financial gains are prevalent to developers who have made use of management practices authorized under the voluntary stormwater management credits.

(5) Estimate the number of acres of soil that have not been disturbed as a result of the application of management practices authorized under the voluntary stormwater management credits.

(6) Recommend whether management practices authorized under the voluntary stormwater management credits should be expanded for discharges below 1,500 feet.

(b) Consultation with interested parties. In developing the report required under subsection (a) of this section, the secretary of natural resources shall consult with interested parties, including environmental groups.

* * * River Corridor Assessment and Planning * * *

Sec. 7. 10 V.S.A. § 1421 is amended to read:

§ 1421. POLICY

To aid in the fulfillment of the state's role as trustee of its navigable waters and to promote public health, safety, convenience, and general welfare, it is declared to be in the public interest to make studies, establish policies, make plans, make rules, encourage and promote buffers adjacent to lakes, ponds, reservoirs, rivers, and streams of the state, encourage and promote protected river corridors adjacent to rivers and streams of the state, and authorize municipal shoreland and river corridor protection zoning bylaws for the efficient use, conservation, development, and protection of the state's water resources. The purposes of the rules shall be to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish, and aquatic life; control building sites, placement of structures, and land uses; reduce fluvial erosion hazards; reduce property loss and damage; preserve shore cover, natural beauty, and natural stability; and provide for multiple use of the waters in a manner to provide for the best interests of the citizens of the state.

Sec. 8. 10 V.S.A. § 1422 is amended to read:

§ 1422. DEFINITIONS

In this chapter, unless the context clearly requires otherwise:

(1) “Agency” means the agency of natural resources.

* * *

(7) “Secretary” means the secretary of natural resources or the secretary’s duly authorized representative.

* * *

(12) “River corridor” means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel, and that is necessary to maintain or restore fluvial for the natural maintenance or natural restoration of dynamic equilibrium conditions and minimize for minimization of fluvial erosion hazards, as delineated by the agency of natural resources in accordance with river corridor protection procedures.

(13) “River” means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches, which experience perennial flow. “River” does not mean constructed drainageways, including water bars, swales, and roadside ditches.

(14) “Equilibrium condition” means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

(15) “Flood hazard area” shall have the same meaning as “area of special flood hazard” under 44 C.F.R. § 59.1.

(16) “Fluvial erosion” means the erosion or scouring of riverbeds and banks during high flow conditions of a river.

(17) “Geomorphic condition” means the degree of departure from the dimensions, pattern, and profile associated with a naturally stable channel representing the unique dynamic equilibrium condition of a river segment.

(18) “Infrastructure” means public and private buildings, roads, and public works, including public and private buildings; state and municipal highways and roads; bridges; sidewalks and other traffic enhancements; culverts; private roads; public and private utility construction, state and municipal public works, cemeteries, and public parks and fields.

(19) “River corridor protection area” means the area within a delineated

river corridor subject to fluvial erosion that may occur as a river establishes and maintains the dimension, pattern, and profile associated with its dynamic equilibrium condition and that would represent a hazard to life, property, and infrastructure placed within the area.

(20) "Sensitivity" means the potential of a river, given its inherent characteristics and present geomorphic conditions, to be subject to a high rate of fluvial erosion and other river channel adjustments, including erosion, deposit of sediment, and flooding.

Sec. 9. 10 V.S.A. § 1427 is amended to read:

§ 1427. RIVER CORRIDORS AND BUFFERS

(a) River corridor and floodplain management program. The secretary of natural resources shall establish a river corridor and floodplain management program to aid and support the municipal adoption of river corridor, floodplain, and buffer bylaws. Under the river corridor and floodplain management program, the secretary shall:

~~(1) upon request, provide municipalities with maps of designated river corridors within the municipality. A river corridor map provided to a municipality shall delineate a recommended buffer that is based on site-specific conditions. The secretary shall provide maps under this subdivision based on a priority schedule established by the secretary in procedure; and assess the geomorphic condition and sensitivity of the rivers of the state and identify where the sensitivity of a river poses a probable risk of harm to life, property, or infrastructure.~~

(2) delineate and map river corridors based on the river sensitivity assessments required under subdivision (1) of this subsection according to a priority schedule established by the secretary by procedure; and

~~(3)~~ develop recommended best management practices for the management of river corridors, floodplains, and buffers.

(b) River sensitivity assessment; secretary's discretion. ~~No later than February 1, 2011, the secretary of administration, after consultation with the state agencies of relevant jurisdiction, shall offer financial incentives to municipalities through existing grants and pass-through funding programs which encourage municipal adoption and implementation of zoning bylaws that protect river corridors and buffers. Notwithstanding the schedule established by the secretary under subdivision (a)(2) of this section, the secretary may complete a sensitivity assessment for a river if, in the secretary's discretion, the sensitivity of a river and the risk it poses to life, property, and infrastructure require an expedited assessment.~~

~~(c) No later than February 1, 2011, the agency of natural resources shall define minimum standards for municipal eligibility for any financial incentives established under subsection (b) of this section.~~ Municipal consultation during river assessment. Prior to and during an assessment of river sensitivity required under subsection (a) of this section, the secretary shall consult with the legislative body or designee of municipalities and the regional planning commissions in the area in which a river is located.

Sec. 10. 10 V.S.A. § 1428 is added to read:

§ 1428. RIVER CORRIDOR PROTECTION

(a) River corridor maps. Upon completion of a sensitivity assessment for a river or river segment under section 1427 of this title, the secretary shall provide to each municipality and regional planning commission in which the river or river segment is located a copy of the sensitivity assessment and a river corridor map for the municipality and region. A river corridor map provided to a municipality and regional planning commission shall identify floodplains, river corridor protection areas, flood hazard areas, and other areas or zones indicated on a Federal Emergency Management Agency flood insurance rate map, and shall recommend best management practices, including vegetated buffers, based on site-specific conditions. The secretary shall post a copy of the sensitivity assessment and river corridor map to the agency of natural resources' website. A municipality with a mapped river or river segment shall post a copy of a sensitivity assessment and river corridor map received under this subsection in the municipal offices and on the municipality's website, if the municipality regularly updates its website . A regional planning commission shall post a sensitivity assessment or river corridor map received under this subsection in the commission's offices and on the commission's website. When a sensitivity assessment or a river corridor map is provided to a municipality, provided to a regional planning commission, or posted on the agency website, the agency shall provide all information, including the supportive data, in a digital format.

(b) River corridor protection area bylaw. The secretary shall create and make available to municipalities several alternative model river corridor protection area bylaws or ordinances for potential adoption by municipalities pursuant to 24 V.S.A. chapter 117 or 24 V.S.A. § 2291. The model bylaws or ordinances shall use terminology consistent with the National Flood Insurance Program regulations.

(c) Flood resilient communities program; incentives. No later than February 1, 2013, the secretary of administration, after consultation with the state agencies of relevant jurisdiction, shall offer financial incentives through a

flood resilient communities program. The program shall list the existing financial incentives under state law for which municipalities may apply for financial assistance, when funds are available, for municipal adoption and implementation of bylaws under 24 V.S.A. chapter 117 that protect river corridors and floodplains. The secretary of natural resources shall summarize minimum standards for municipal eligibility for any financial incentives established under this subsection.

* * * Municipal Planning; Flood Hazard and
River Corridor Protection Areas * * *

Sec. 11. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

* * *

(8) “Flood hazard area” for purposes of section 4424 of this title ~~means the land subject to flooding from the base flood. “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year~~ shall have the same meaning as “area of special flood hazard” under 44 C.F.R. § 59.1. Further, with respect to flood, river corridor protection area, and other hazard area regulation pursuant to this chapter, the following terms shall have the following meanings:

(A) “Floodproofing” ~~means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures that substantially reduce or eliminate flood damage to any combination of real estate, improved real property, water or sanitary facilities, structures, and the contents of structures~~ shall have the same meaning as “flood proofing” under 44 C.F.R. § 59.1.

(B) “Floodway” ~~means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more than one foot~~ shall have the same meaning as “regulatory floodway” under 44 C.F.R. § 59.1.

(C) “Hazard area” means land subject to landslides, soil erosion, fluvial erosion, earthquakes, water supply contamination, or other natural or human-made hazards as identified within a “local mitigation plan” enacted under section 4424 of this title and in conformance with and approved pursuant to the provisions of 44 C.F.R. ~~section~~ § 201.6.

(D) “National Flood Insurance Program” means the National Flood Insurance Program under 42 U.S.C. chapter 50 and implementing federal regulations in 44 C.F.R. parts 59 and 60.

(E) “New construction” means construction of structures or filling commenced on or after the effective date of the adoption of a community’s flood hazard bylaws.

(E)(F) “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. However, the term does not include either of the following:

(i) Any project or improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions.

(ii) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(G) “Equilibrium condition” means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

(H) “Fluvial erosion” means the erosion or scouring of riverbeds and banks during high flow conditions of a river.

(I) “River” means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow. “River” does not mean constructed drainageways, including water bars, swales, and roadside ditches.

(J) “River corridor” means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the agency of natural resources in accordance with river corridor protection procedures.

(K) “River corridor protection area” means the area within a delineated river corridor subject to fluvial erosion that may occur as a river establishes and maintains the dimension, pattern, and profile associated with its dynamic equilibrium condition and that would represent a hazard to life,

property, and infrastructure placed within the area.

* * *

Sec. 12. 24 V.S.A. § 4411(b) is amended to read:

(b) All zoning bylaws shall apply to all lands within the municipality other than as specifically limited or exempted in accordance with specific standards included within those bylaws and in accordance with the provisions of this chapter. The provisions of those bylaws may be classified so that different provisions may be applied to different classes of situations, uses, and structures and to different and separate districts of the municipality as may be described by a zoning map made part of the bylaws. The land use map required pursuant to subdivision 4382(a)(2) of this title of any municipality may be designated as the zoning map except in cases in which districts are not deemed by the planning commission to be described in sufficient accuracy or detail by the municipal plan land use map. All provisions shall be uniform for each class of use or structure within each district, except that additional classifications may be made within any district for any or all of the following:

(1) To make transitional provisions at and near the boundaries of districts.

(2) To regulate the expansion, reduction, or elimination of certain nonconforming uses, structures, lots, or parcels.

(3) To regulate, restrict, or prohibit uses or structures at or near any of the following:

* * *

(G) Flood, ~~fluvial erosion~~ or other hazard areas and other places having a special character or use affecting or affected by their surroundings.

(H) River corridors, river corridor protection areas, and buffers, as ~~those terms are~~ the term "buffer" is defined in 10 V.S.A. §§ § 1422 and 1427.

* * *

Sec. 13. 24 V.S.A. § 4424 is amended to read:

§ 4424. SHORELANDS; RIVER CORRIDOR PROTECTION AREAS;
FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING
BYLAWS

(a) Any municipality may adopt freestanding bylaws under this chapter to address particular hazard areas in conformance with the municipal plan or, for

the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6, including the following, which may also be part of zoning or unified development bylaws:

(1) Bylaws to regulate development and use along shorelands.

(2) Bylaws to regulate development and use in flood areas, river corridor protection areas, or other hazard areas. The following shall apply if flood or other hazard area bylaws are enacted:

(A) Purposes.

(i) To minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding, landslides, erosion hazards, earthquakes, and other natural or human-made hazards.

(ii) To ensure that the design and construction of development in flood, river corridor protection, and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property in a flood hazard area or that minimizes the potential for fluvial erosion and loss or damage to life and property in a river corridor protection area.

(iii) To manage all flood hazard areas designated pursuant to 10 V.S.A. § 753.

(iv) To make the state and municipalities eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

(B) Contents of bylaws. Flood, river corridor protection area, and other hazard area bylaws may:

(i) Contain standards and criteria that prohibit the placement of damaging obstructions or structures, the use and storage of hazardous or radioactive materials, and practices that are known to further exacerbate hazardous or unstable natural conditions.

(ii) Require flood, fluvial erosion, and hazard protection through elevation, floodproofing, disaster preparedness, hazard mitigation, relocation, or other techniques.

(iii) Require adequate provisions for flood drainage and other emergency measures.

(iv) Require provision of adequate and disaster-resistant water and wastewater facilities.

(v) Establish other restrictions to promote the sound management and use of designated flood, river corridor protection, and other hazard areas.

(vi) Regulate all land development in a flood hazard area, river corridor protection area, or other hazard area, except for development that is regulated under 10 V.S.A. § 754.

(C) Effect on zoning bylaws. Flood or other hazard area bylaws may alter the uses otherwise permitted, prohibited, or conditional in a flood or other hazard area under a bylaw, as well as the applicability of other provisions of that bylaw. Where a flood hazard bylaw, a hazard area bylaw, or both apply along with any other bylaw, compliance with the flood or other hazard area bylaw shall be prerequisite to the granting of a zoning permit. Where a flood hazard area bylaw or a hazard area bylaw but not a zoning bylaw applies, the flood hazard and other hazard area bylaw shall be administered in the same manner as are zoning bylaws, and a flood hazard area or hazard area permit shall be required for land development covered under the bylaw.

(D)(i) Mandatory provisions. All flood and other hazard area bylaws shall provide that no permit for new construction or substantial improvement shall be granted for a flood or other hazard area until after both the following:

(i)(I) A copy of the application is mailed or delivered by the administrative officer or by the appropriate municipal panel to the agency of natural resources or its designee.

(i)(II) Either 30 days have elapsed following the mailing or the agency or its designee delivers comments on the application.

(ii) The agency of natural resources may delegate to a qualified representative of a municipality with a flood hazard area bylaw or ordinance or to a qualified representative for a regional planning commission the agency's authority under this subdivision (a)(2)(D) to review and provide technical comments on a proposed permit for new construction or substantial improvement in a flood hazard area. Comments provided by a representative delegated under this subdivision (a)(2)(D) shall not be binding on a municipality.

~~(E) Special exceptions. The appropriate municipal panel, after public hearing, may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:~~

~~(i) The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.~~

~~(ii) The appropriate municipal panel finds that the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.~~

~~(iii) The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform to the bylaws pertaining to that area, and will be maintained at the risk of the owner.~~

(b) A municipality may adopt a flood hazard area, river corridor protection area, or other hazard area regulation that meets the requirements of this section by ordinance under subdivision 2291(25) of this title.

Sec. 14. 24 V.S.A. § 4469 is amended to read:

§ 4469. APPEAL; VARIANCES

(a) On an appeal under section 4465 or 4471 of this title or on a referral under subsection 4460(e) of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is not primarily a renewable energy resource structure, the board of adjustment or the development review board or the environmental division created under 4 V.S.A. chapter 27 shall grant variances and render a decision in favor of the appellant, if all the following facts are found, and the finding is specified in its decision:

(1) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.

(2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) Unnecessary hardship has not been created by the appellant.

(4) The variance, if authorized, will not alter the essential character of

the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

(5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

(b) On an appeal under section 4465 or 4471 of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is primarily a renewable energy resource structure, the board of adjustment or development review board or the environmental division may grant that variance and render a decision in favor of the appellant if all the following facts are found, and the finding is specified in its decision:

(1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.

(2) The hardship was not created by the appellant.

(3) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

(4) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and from the plan.

(c) In rendering a decision in favor of an appellant under this section, a board of adjustment or development review board or the environmental division may attach such conditions to variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this chapter and the plan of the municipality then in effect.

(d) A variance authorized in a flood hazard area shall meet applicable federal and state rules for compliance with the National Flood Insurance Program.

Sec. 15. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and

convenience, a town, city, or incorporated village shall have the following powers:

* * *

(25) To regulate by means of an ordinance or bylaw development in a flood hazard area, river corridor protection area, or other hazard area consistent with the requirements of section 4424 of this title and the National Flood Insurance Program.

Sec. 16. 10 V.S.A. § 6086(c) is amended to read:

(c) A permit may contain such requirements and conditions as are allowable proper exercise of the police power and which are appropriate within the respect to subdivisions (1) through (10) of subsection (a), including but not limited to those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to insure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the land use panel.

Sec. 17. ANR REPORT ON FINANCIAL INCENTIVES FOR THE FLOOD RESILIENT COMMUNITIES PROGRAM

As part of the biennial report required by Sec. 8 of No. 110 of the Acts of the 2009 Adj. Sess. (2010), the secretary of natural resources shall identify existing state financing programs or incentives that could be amended so that such programs or incentives could be available to municipalities under the flood resilient communities program for the purpose of flood hazard and river corridor protection planning.

Sec. 18. IMPLEMENTATION; TRANSITION

(a)(1) Prior to the secretary of natural resources' adopting rules under 10 V.S.A. § 754 for the regulation in flood hazard areas of uses exempt from municipal regulation:

(A) state- or community-owned and -operated institutions and facilities shall not be constructed within a flood hazard area, as that term is defined in 10 V.S.A. § 752(3), unless such construction conforms with the development requirements of the National Flood Insurance Program; and

(B) the following new uses or new construction shall not be permitted or certified for construction unless such construction conforms with the development requirements of the National Flood Insurance Program:

- (i) a school;
- (ii) a hospital;
- (iii) a solid waste or hazardous waste facility; or
- (v) a power-generating plant or transmission facility regulated under 30 V.S.A. § 248.

(2) Noncompliance with the requirements of this section shall not affect the marketability of title of a property.

(b) The consolidated executive branch fee report and request to be submitted on or before the third Tuesday of January 2013 pursuant to 32 V.S.A. § 605 shall include the agency of natural resources' proposed fee or fees to support the agency's services provided under Sec. 1 of this act in 10 V.S.A. § 754 (flood hazard area rules). The proposed fee shall be sufficient to pay for at least 20 percent of the cost to the agency of natural resources of implementing, administering, and enforcing the rules adopted under 10 V.S.A. § 754.

* * * ANR Report on State Water Quality Programs * * *

Sec. 19. AGENCY OF NATURAL RESOURCES WATER QUALITY
REMEDATION, IMPLEMENTATION, AND FUNDING REPORT

(a) Findings. The general assembly finds and declares that:

- (1) Clean water is a key factor in Vermont's quality of life.
- (2) Preserving, protecting, and restoring the water quality of surface waters are necessary for the clean water, recreation, economic opportunity, wildlife habitat, and ecological value that such waters provide.
- (3) Restoring and maintaining river corridor, floodplain, lakeshore, wildlife habitat, and wetland functions serve to protect water quality and reduce the risk of flood hazards.
- (4) The state and its regulatory agencies currently are subject to multiple requirements to respond to, remediate, and prevent water quality problems in the state, including the following:
 - (A) The federal Clean Water Act requires a total maximum daily load (TMDL) plan for impaired waters. Lake Champlain is impaired due to phosphorus pollution that exceeds the Vermont water quality standards. The U.S. Environmental Protection Agency (EPA) recently disapproved the Lake Champlain phosphorus TMDL. Consequently, the state will be required to amend the TMDL implementation plan in order to incorporate additional water quality measures and controls.

(B) The EPA likely will require the state to meet certain pollution control requirements for nitrogen in the Connecticut River as part of the Long Island Sound TMDL.

(C) The state is required to implement federally required TMDLs for 15 stormwater-impaired waters in the state.

(D) All waters of the state are at risk of pollution or impairment, and under state and federal law, the state is required to prevent impairment or degradation of these waters.

(5) Responding to the multiple water quality requirements to which the state is subject will require significant funding, but the state currently lacks the funding necessary to respond adequately and in a timely way to the demands for remediation and water quality protection.

(6) The development of a statewide mechanism, such as a statewide clean water utility, is necessary to address regulatory demands and to prioritize investment in water quality projects throughout the state so that the protection and improvement of water quality is achieved in the most cost-effective manner.

(7) In order to identify how the state should respond to existing and future demands to remediate and protect state surface waters, the secretary of natural resources should submit to the general assembly recommendations for addressing and funding the multiple water quality requirements to which the state is subject.

(b) Report requirement. On or before December 15, 2012, the secretary of natural resources shall report to the house committee on fish, wildlife and water resources, the house and senate committees on natural resources and energy, the house and senate committees on agriculture, and the house and senate committees on transportation with recommendations on how to remediate or improve the water quality of the state's surface waters, how to implement remediation or improvement of water quality, and how to fund the remediation or improvement of water quality.

(c) Content of report. In the report required by this section, the secretary shall recommend:

(1) Funding. How to fund statewide and localized water quality remediation and conservation efforts. The secretary shall recommend funding sources or a funding mechanism or mechanisms for ongoing water quality efforts in the state. The recommendation shall address whether the state should implement a statewide assessment or fee, such as a clean water utility fee, an

impervious surface fee, a Clean Water Act § 401 (33 U.S.C. § 1341) certification fee, impact fees, or other fees or charges.

(2) Administration. How to design, implement, and administer water quality programs in the state, including whether:

(A) a statewide clean water utility or similar statewide mechanism should be established to address water quality in the state;

(B) implementation of a statewide clean water utility or similar statewide mechanism is more suitable for an independent, nongovernmental entity and, if so:

(i) how an independent, nongovernmental entity would be established and administered; and

(ii) whether such an entity would need rulemaking authority in order to effectively operate and implement a water quality program.

(C) water quality programs could be effectively implemented through regional water quality utilities or similar mechanisms currently authorized under 24 V.S.A. chapters 105 and 121.

(3) Priority award. How available water quality funds should be allocated, including:

(A) whether funds should be allocated according to a science-based system that prioritizes awards to projects or programs in areas of high risk of pollution in impaired, unimpaired, or high quality waters.

(B) whether funds should be available for the development, accommodation, or planning of municipal or regional water quality utilities or mechanisms authorized under 24 V.S.A. chapters 105 and 121.

(C) how to best achieve regional equity in the distribution of water quality funds.

(D) whether additional priority points should be awarded to certain water quality projects eligible for funding from the special environmental revolving fund under 24 V.S.A. chapter 120.

(4) Agricultural water quality. After consultation with the secretary of agriculture, food and markets and the agricultural community, how regulation of agricultural runoff and application of water quality standards to agricultural operations should be implemented, including whether additional requirements, standards, technical assistance, or financial assistance is necessary to increase compliance with AAPs and whether the AAPs should be amended to require all small farms or a subset of small farms to apply nutrients according to a

nutrient management plan or at a more stringent soil loss tolerance than is currently required.

(5) Urban water quality. How regulation of stormwater runoff should be managed and enforced in order to meet the Vermont water quality standards and whether additional requirements, standards, technical assistance, or financial assistance are necessary to improve the management of stormwater runoff in the state.

(6) Lake shoreland protection. How the state should work toward the restoration and protection of shorelands of lakes, including how the state should regulate development in shorelands of lakes, including whether the state should enact statewide regulation for activities within shorelands of lakes and whether any regulation of activities within shorelands should be based on site-specific criteria.

(7)(A) Critical source areas. How to respond to and remediate nutrient pollution from critical source areas. The recommendations shall:

(i) address how to define and identify critical source areas statewide, including the Lake Champlain Basin;

(ii) propose a process and provide a cost estimate for developing site-specific implementation plans to reduce discharges from critical source areas and shall summarize how tactical basin planning will be utilized in such a process.

(B) As used in this subdivision (7), "critical source area" means an area in a watershed with high potential for the release, discharge, or runoff of nutrients or pollutants to the waters of the state.

(8) Response plans or mechanism. A plan or mechanism for prioritizing state response to and remediation of water quality concerns or impairments in identified waters or watersheds, such as St. Albans Bay, including how to prioritize available funding or staffing in a manner that allows discrete water quality issues to be addressed and remediated.

(9) Implementation plan. How the recommendations or plans required under subdivisions (1) through (8) of this subsection will be implemented.

(d) Conduct of report; consultation. In developing the recommendations required by subsection (c) of this section, the secretary of the agency of natural resources shall consult with interested parties for guidance, including but not limited to: the secretary of transportation or his or her designee; the secretary of agriculture, food and markets or his or her designee; the chair of the natural resources board or his or her designee; legislators and legislative staff;

representatives of environmental groups; representatives of municipalities or municipal interests; representatives of municipalities subject to the federal Clean Water Act requirements for discharges from municipal separate storm sewer systems; representatives of the agricultural community; representatives of the business community; representatives of municipal stormwater utilities or other municipal stormwater controls; representatives of engineering or consulting firms; and other interested persons or organizations relevant to completion of the report. The secretary shall warn any meeting with interested parties in fulfillment of this section by posting a notice of such a meeting to the website of the agency of natural resources no later than seven days before the meeting.

(e) Format of report to general assembly. The report to the general assembly required by this section shall address each of the report requirements of subsection (c) of this section and may, as part of the report, include recommended draft legislation.

* * * ANR Rulemaking Authority * * *

Sec. 20. 10 V.S.A. § 905b is amended to read:

§ 905b. DUTIES; POWERS

The department shall protect and manage the water resources of the state in accordance with the provisions of this subchapter and shall:

* * *

(18) study and investigate the wetlands of the state and cooperate with municipalities, the general public, other agencies, and the board in collecting and compiling data relating to wetlands, propose to the board specific wetlands to be designated as Class I wetlands, issue or deny permits pursuant to section 6025 of this title and the rules ~~of the panel~~ authorized by this subdivision, issue wetland determinations pursuant to section 914 of this title, issue orders pursuant to section 1272 of this title, and ~~implement the rules adopted by the board governing significant wetlands~~ in accordance with 3 V.S.A. chapter 25, adopt rules to address the following:

(A) the identification of wetlands that are so significant they merit protection. Any determination that a particular wetland is significant will result from an evaluation of at least the following functions and values which a wetland serves:

(i) provides temporary water storage for flood water and storm runoff;

(ii) contributes to the quality of surface and groundwater through chemical action;

(iii) naturally controls the effects of erosion and runoff, filtering silt, and organic matter;

(iv) contributes to the viability of fisheries by providing spawning, feeding, and general habitat for freshwater fish;

(v) provides habitat for breeding, feeding, resting, and shelter to both game and nongame species of wildlife;

(vi) provides stopover habitat for migratory birds;

(vii) contributes to an exemplary wetland natural community, in accordance with the rules of the secretary;

(viii) provides for threatened and endangered species habitat;

(ix) provides valuable resources for education and research in natural sciences;

(x) provides direct and indirect recreational value and substantial economic benefits; and

(xi) contributes to the open-space character and overall beauty of the landscape;

(B) the ability to reclassify wetlands, in general, or on a case-by-case basis;

(C) the protection of wetlands that have been determined under subdivision (A) or (B) of this subdivision (18) to be significant, including rules that provide for the issuance or denial of permits and the issuance of wetland determinations by the department under this chapter; provided, however, that the rules may only protect the values and functions sought to be preserved by the designation. The department shall not adopt rules that restrain agricultural activities without the consent of the secretary of agriculture, food and markets and shall not adopt rules that restrain silvicultural activities without the consent of the commissioner of forests, parks and recreation;

* * *

Sec. 21. 10 V.S.A. § 1252 is amended to read:

§ 1252. CLASSIFICATION OF WATERS; MIXING ZONES

* * *

(b) The secretary may establish mixing zones or waste management zones

as necessary in the issuance of a permit in accordance with this section and criteria established by ~~board~~ rule. ~~The board shall adopt these rules by July 1, 1994.~~ Those waters authorized under this chapter, as of July 1, 1992, to receive the direct discharge of wastes which prior to treatment contained organisms pathogenic to human beings are designated waste management zones for those discharges. Those waters that as of July 1, 1992 are Class C waters into which no direct discharge of wastes that prior to treatment contained organisms pathogenic to human beings is authorized, shall become waste management zones for any municipality in which the waters are located that qualifies for a discharge permit under this chapter for those wastes prior to July 1, 1997.

* * *

(e) The ~~board~~ secretary shall adopt standards of water quality to achieve the purposes of the water classifications. Such standards shall be expressed in detailed water quality criteria, taking into account the available data and the effect of these criteria on existing activities, using as appropriate: (1) numerical values, (2) biological parameters; and (3) narrative descriptions. These standards shall establish limits for at least the following: alkalinity, ammonia, chlorine, fecal coliform, color, nitrates, oil and grease, dissolved oxygen, pH, phosphorus, temperature, all toxic substances for which the United States Environmental Protection Agency has established criteria values and any other water quality parameters deemed necessary by the board.

(f) The ~~board~~ secretary may issue declaratory rulings regarding these standards.

* * *

Sec. 22. 10 V.S.A. § 1253 is amended to read:

§ 1253. CLASSIFICATION OF WATERS DESIGNATED,
RECLASSIFICATION

* * *

(c) On its own motion, or on receipt of a written request that the ~~board~~ secretary adopt, amend, or repeal a reclassification rule, the ~~board~~ secretary shall comply with 3 V.S.A. § 806 and may initiate a rulemaking proceeding to reclassify all or any portion of the affected waters in the public interest. In the course of this proceeding, the ~~board~~ secretary shall comply with the provisions of 3 V.S.A. chapter 25, and may hold a public hearing convenient to the waters in question. If the ~~board~~ secretary finds that the established classification is contrary to the public interest and that reclassification is in the public interest, ~~it~~ he or she shall file a final proposal of reclassification in accordance with

3 V.S.A. § 841. If the ~~board~~ secretary finds that it is in the public interest to change the classification of any pond, lake or reservoir designated as Class A waters by subsection (a) of this section, ~~it~~ the secretary shall so advise and consult with the department of health and shall provide in its reclassification rule a reasonable period of time before the rule becomes effective. During that time, any municipalities or persons whose water supply is affected shall construct filtration and disinfection facilities or convert to a new source of water supply.

(d) The ~~board~~ secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by ~~it~~ the board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The secretary shall revise all 17 basin plans by January 1, 2006, and update them every five years thereafter. On or before January 1 of each year, the secretary shall report to the house committees on agriculture, on natural resources and energy, and on fish, wildlife and water resources, and to the senate committees on agriculture and on natural resources and energy regarding the progress made and difficulties encountered in revising basin plans. By January 1, 1993, the secretary shall prepare an overall management plan to ensure that the water quality standards are met in all state waters.

(e) In determining the question of public interest, the ~~board~~ secretary shall give due consideration to, and explain ~~its~~ his or her decision with respect to, the following:

* * *

(f) Notwithstanding the provisions of subsection (c) of this section, when reclassifying waters to Class A, the ~~board~~ the secretary need find only that the reclassification is in the public interest.

(g) The ~~board in its~~ secretary under the reclassification rule may ~~direct the secretary to~~ grant permits for only a portion of the assimilative capacity of the receiving waters, or ~~to~~ may permit only indirect discharges from on-site disposal systems, or both.

Sec. 23. 10 V.S.A. § 1424 is amended to read:

§ 1424. USE OF PUBLIC WATERS

(a) The ~~board~~ secretary may establish rules to ~~regulate the use of the public waters by~~ implement the provisions of this chapter, including:

(1) Rules to regulate the use of public waters of the state by:

(A) Defining areas on public waters wherein certain uses may be conducted;

~~(2)~~(B) Defining the uses which may be conducted in the defined areas;

~~(3)~~(C) Regulating the conduct in these areas, including ~~but not limited to~~ the size of motors allowed, size of boats allowed, allowable speeds for boats, and prohibiting the use of motors or houseboats;

~~(4)~~(D) Regulating the time various uses may be conducted.

(2) Rules to govern the surface levels of lakes, ponds, and reservoirs that are public waters of the state.

(b) The ~~board~~ secretary in establishing rules under subdivision (a)(2) of this section shall consider the size and flow of the navigable waters, the predominant use of adjacent lands, the depth of the water, the predominant use of the waters prior to regulation, the uses for which the water is adaptable, the availability of fishing, boating, and bathing facilities, the scenic beauty, and recreational uses of the area.

(c) The ~~board~~ secretary shall attempt to manage the public waters so that the various uses may be enjoyed in a reasonable manner, in the best interests of all the citizens of the state. To the extent possible, the ~~board~~ secretary shall provide for all normal uses.

~~(d) If another agency has jurisdiction over the waters otherwise controlled by this section, that other agency's rules shall apply, if inconsistent with the rules promulgated under this section. The board may not remove the restrictions set forth in 25 V.S.A. §§ 320 and 321.~~

(e) On receipt of a written request that the ~~board~~ secretary adopt, amend, or repeal a rule with respect to the use of public waters signed by not less than one person, the ~~board~~ secretary shall consider the adoption of rules authorized under this section and take appropriate action as required under 3 V.S.A. § 806.

(f) By rule, the ~~board~~ secretary may delegate authority under this section for the regulation of public waters where:

(1) the delegation is to a municipality which is adjacent to or which contains the water; and

(2) the municipality accepts the delegation by creating or amending a bylaw or ordinance for regulation of the water. Appeals from a final act of the municipality under the bylaw or ordinance shall be taken to the environmental

division. The ~~board~~ secretary may terminate a delegation for cause or without cause upon six months' notice to the municipality.

Sec. 24. 10 V.S.A. § 6025 is amended to read:

§ 6025. RULES

* * *

~~(d) The water resources panel may adopt rules, in accordance with the provisions of chapter 25 of Title 3, in the following areas:~~

~~(1) Rules governing surface levels of lakes, ponds, and reservoirs that are public waters of Vermont.~~

~~(2) Rules regarding classification of the waters of the state, in accordance with chapter 47 of this title.~~

~~(3) Rules regarding the establishment of water quality standards, in accordance with chapter 47 of this title.~~

~~(4) Rules regulating the surface use of public waters, and rules pertaining to the designation of outstanding resource waters, in accordance with chapter 49 of this title.~~

~~(5) Rules regarding the identification of wetlands that are so significant that they merit protection. Any determination that a particular wetland is significant will result from an evaluation of at least the following functions and values which a wetland serves:~~

~~(A) provides temporary water storage for flood water and storm runoff;~~

~~(B) contributes to the quality of surface and groundwater through chemical action;~~

~~(C) naturally controls the effects of erosion and runoff, filtering silt and organic matter;~~

~~(D) contributes to the viability of fisheries by providing spawning, feeding, and general habitat for freshwater fish;~~

~~(E) provides habitat for breeding, feeding, resting, and shelter to both game and nongame species of wildlife;~~

~~(F) provides stopover habitat for migratory birds;~~

~~(G) contributes to an exemplary wetland natural community, in accordance with the rules of the panel;~~

~~(H) provides for threatened and endangered species habitat;~~

~~(I) provides valuable resources for education and research in natural sciences;~~

~~(J) provides direct and indirect recreational value and substantial economic benefits; and~~

~~(K) contributes to the open-space character and overall beauty of the landscape.~~

~~(6) Rules regarding the ability to reclassify wetlands, in general, or on a case-by-case basis.~~

~~(7) Rules protecting wetlands that have been determined under subdivision (5) or (6) of this subsection to be significant, including rules that provide for the issuance or denial of permits and the issuance of wetland determinations under chapter 37 of this title by the department of environmental conservation; provided, however, that the rules may only protect the values and functions sought to be preserved by the designation. The panel shall not adopt rules that restrain agricultural activities without the consent of the secretary of the agency of agriculture, food and markets and shall not adopt rules that restrain silvicultural activities without the consent of the commissioner of the department of forests, parks and recreation.~~

~~(8) Rules implementing 29 V.S.A. chapter 11, relating to management of lakes and ponds.~~

~~(e) Except for subsection (a) of this section, references to rules adopted by the board shall be construed to mean rules adopted by the appropriate panel of the board, as established by this section.~~

Sec. 25. 29 V.S.A. § 410 is added to read:

§ 410. RULEMAKING; ENCROACHMENTS ON PUBLIC WATERS

The department may adopt rules to implement the requirements of this chapter.

Sec. 26. FORMER WATER RESOURCES PANEL RULES

Rules of the water resources panel of the natural resources board issued pursuant to 10 V.S.A. § 6025(d), as that statute and those rules existed immediately prior to the effective date of this act, shall be deemed rules of the secretary of natural resources, and the secretary may amend those rules in accordance with 3 V.S.A. chapter 25.

Sec. 27. STATUTORY REVISION

To effect the purpose of this act of transferring the rulemaking authority of the water resources panel to the secretary of natural resources, the office of

legislative council is directed to revise the existing Vermont Statutes Annotated and, where applicable, replace the terms “natural resources board,” “water resources panel of the natural resources board,” “water resources panel,” “water resources board,” and similar terms with the term “secretary of natural resources,” “secretary,” “agency of natural resources,” “agency,” “department of environmental conservation,” or “department” as appropriate, including the following revisions:

(1) in 10 V.S.A. §§ 913 and 915, by replacing “panel” with “department”;

(2) in 10 V.S.A. chapter 47, by replacing “board” with “secretary” where appropriate;

(3) in 10 V.S.A. §§ 1422 and 1424, by replacing “board” with “secretary” where appropriate; and

(4) in 29 V.S.A. §§ 401, 402, and 403, by replacing “board” with “department” where appropriate.

Sec. 28. PURPOSE AND INTENT; PUBLIC PARTICIPATION IN
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
RULEMAKING

It is the purpose and intent of the general assembly that, in addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a proposed rule to the secretary of state under 3 V.S.A. § 838, the department of environmental conservation shall engage in an expanded public participation process with affected stakeholders and other interested persons in a dialogue about intent, method, and outcomes of a proposed rule for the purpose of resolving concerns and differences regarding proposed rules. The department of environmental conservation is encouraged to use workshops, focused work groups, dockets, meetings, or other forms of communication to meet the participation requirements of this section.

* * * Agricultural Water Quality * * *

Sec. 29. 10 V.S.A. § 303 is amended to read:

§ 303. DEFINITIONS

As used in this chapter:

(1) “Board” means the Vermont housing and conservation board established by this chapter.

(2) “Fund” means the Vermont housing and conservation trust fund established by this chapter.

(3) "Eligible activity" means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:

(A) the preservation, rehabilitation or development of residential dwelling units which are affordable to lower income Vermonters;

(B) the retention of agricultural land for agricultural use;

(C) the protection of important wildlife habitat and important natural areas;

(D) the preservation of historic properties or resources;

(E) the protection of areas suited for outdoor public recreational activity;

(F) the protection of lands for multiple conservation purposes, including the protection of surface waters and associated natural resources;

(G) the development of capacity on the part of an eligible applicant to engage in an eligible activity.

(4) "Eligible applicant" means any:

(A) municipality;

(B) ~~department of state government~~ state agency as defined in ~~subsection 6302(a)~~ section 6301a of this title;

(C) nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code; or

(D) cooperative housing organization, the purpose of which is the creation or retention of affordable housing for lower income Vermonters and the bylaws of which require that such housing be maintained as affordable housing for lower income Vermonters on a perpetual basis.

* * *

* * * State Revolving Loan Fund; Stormwater Projects * * *

Sec. 30. 24 V.S.A. § 4752(3) is amended to read:

(3) "Municipality" means any city, town, village, town school district, incorporated school district, union school district or other school district, fire district, consolidated sewer district, consolidated water district ~~or~~, solid waste district, or statewide or regional water quality utility or mechanism organized under laws of the state.

* * * Land Application of Septage * * *

Sec. 31. 10 V.S.A. § 6605(g) is amended to read:

(g)(1) Emergency sludge and septage disposal approval. Notwithstanding any other provision of this section, the secretary may authorize the land disposal or management of sludge or septage by an applicant at any certified site or facility with available capacity, provided the secretary finds:

(A) that the applicant needs to dispose of accumulated sludge or septage promptly, and that delay would likely cause public health, or environmental damage, or nuisance conditions, or would result in excessive and unnecessary cost to the public, and that the applicant has lost authority to use previously certified sites through no act or omission of the applicant; and

(B) that at the certified site or facility to be used:

(i) the certificate holder agrees in writing to allow use of the site or facility by the applicant;

(ii) management of the applicant's sludge or septage is compatible with the site or facility certificate;

(iii) all terms and conditions of the original certification will continue to be met with addition of the applicant's sludge or septage; and

(iv) beginning January 1, 2013, any sludge or septage applied to land shall be applied according to a nutrient management plan approved by the secretary.

(2) The secretary shall, following his or her issuance of approval of emergency sludge or septage disposal under this subsection, provide public notice of that action.

Sec. 32. 10 V.S.A. § 1386 is amended to read:

§ 1386. IMPLEMENTATION PLAN FOR THE LAKE CHAMPLAIN
TOTAL MAXIMUM DAILY LOAD PLAN

(a) ~~On or before January 15, 2010, Within 12 months after the issuance of a phosphorus total maximum daily load plan (TMDL) for Lake Champlain by the U.S. Environmental Protection Agency, the secretary of natural resources shall issue a revised Vermont-specific implementation plan for the Lake Champlain TMDL. Beginning January 15, 2013, and every~~ Every four years ~~thereafter~~ after issuance of the Lake Champlain TMDL by the U.S. Environmental Protection Agency, the secretary of natural resources shall amend and update the Vermont-specific implementation plan for the Lake Champlain TMDL. Prior to issuing, amending, or updating the

implementation plan, the secretary shall consult with the agency of agriculture, food and markets, all statewide environmental organizations that express an interest in the plan, the Vermont League of Cities and Towns, all business organizations that express an interest in the plan, the University of Vermont Rubenstein ecosystem science laboratory, and other interested parties. The implementation plan shall include a comprehensive strategy for implementing the Lake Champlain ~~total maximum daily load (TMDL)~~ TMDL plan and for the remediation of Lake Champlain. The implementation plan shall be issued as a document separate from the Lake Champlain TMDL. The implementation plan shall:

(1) Include or reference the elements set forth in 40 C.F.R. § 130.6(c) for water quality management plans;

(2) Comply with the requirements of section 1258 of this title and administer a permit program to manage discharges to Lake Champlain consistent with the federal Clean Water Act;

(3) Develop a process for identifying critical source areas for non-point source pollution in each subwatershed. As used in this subdivision, “critical source area” means an area in a watershed with high potential for the release, discharge, or runoff of phosphorus to the waters of the state;

(4) Develop site-specific plans to reduce point source and non-point source load discharges in critical source areas identified under subdivision (3) of this subsection;

(5) Develop a method for identifying and prioritizing on public and private land pollution control projects with the potential to provide the greatest water quality benefits to Lake Champlain;

(6) Develop a method of accounting for changes in phosphorus loading to Lake Champlain due to implementation of the TMDL and other factors;

(7) Develop phosphorus reduction targets related to phosphorus reduction for each water quality program and for each segment of Lake Champlain, including benchmarks for phosphorus reduction that shall be achieved. The implementation plan shall explain the methodology used to develop phosphorus reduction targets under this subdivision;

(8) Establish a method for the coordination and collaboration of water quality programs within the state;

(9) Develop a method for offering incentives or disincentives to wastewater treatment plants for maintaining the 2006 levels of phosphorus discharge to Lake Champlain;

(10) Develop a method of offering incentives or disincentives for reducing the phosphorus contribution of stormwater discharges within the Lake Champlain basin.

(b) In amending the Vermont-specific implementation plan of the Lake Champlain TMDL under this section, the secretary of natural resources shall comply with the public participation requirements of 40 C.F.R. § 130.7(c)(1)(ii).

~~(c) On or before January 15, 2010, the secretary of natural resources shall report to the house committee on fish, wildlife and water resources, the senate committee on natural resources, and the house and senate committees on agriculture with a summary of the contents of and the process leading to the adoption under subsection (a) of this section of the implementation plan for the Lake Champlain TMDL. On or before January 15, 2013, and 15 in the year following issuance of the implementation plan under subsection (a) of this section and every four years thereafter, the secretary shall report to the house committee on fish, wildlife and water resources, the senate committee on natural resources, and the house and senate committees on agriculture regarding the execution of the implementation plan. The report shall include:~~

~~(1) with the~~ The amendments or revisions to the implementation plan for the Lake Champlain TMDL required by subsection (a) of this section. Prior to ~~issuing~~ submitting a report required by this subsection that includes amendments to revisions to the implementation plan, the secretary shall hold at least three public hearings in the Lake Champlain watershed to describe the amendments and revisions to the implementation plan for the Lake Champlain TMDL. The secretary shall prepare a responsiveness summary for each public hearing. ~~Beginning January 15, 2013, a report required by this subsection shall include:~~

~~(1)(2)~~ (2) An assessment of the implementation plan for the Lake Champlain TMDL based on available data, including an evaluation of the efficacy of the implementation plan;

~~(2)(3)~~ (3) ~~An assessment of the hydrologic base period used to determine the phosphorus loading capacities for the Lake Champlain TMDL based on available data, including an evaluation of the adequacy of the hydrologic base period for the TMDL; Recommendations, if any, for amending the implementation plan or for reopening the Lake Champlain TMDL.~~

~~(3) Recommendations, if any, for amending the implementation plan or reopening the Lake Champlain TMDL.~~

(d) Beginning February 1, ~~2009~~ 2014 and annually thereafter, the secretary,

after consultation with the secretary of agriculture, food and markets, shall submit to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture a ~~clean and clear program~~ summary reporting on of activities and measures of progress for each program supported by funding under the ~~Clean and Clear Action Plan~~ of water quality ecosystem restoration programs.

Sec. 33. REPEAL

10 V.S.A. § 1385 (Lake Champlain TMDL plan) is repealed.

* * * Enforcement, Appeals, Transition; Effective Dates * * *

Sec. 34. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

(1) ~~{Deleted.}~~ 10 V.S.A. chapter 23, relating to air quality;

(2) 10 V.S.A. chapter 23, relating to air quality 32, relating to flood hazard areas;

* * *

(21) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste; and

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps.

* * *

Sec. 35. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(R) chapter 32 (flood hazard areas).

* * *

Sec. 36. REPEAL

25 V.S.A. §§ 142–144 (general provisions relating to rivers and streams) are repealed.

Sec. 37. 30 V.S.A. § 34 is added to read:

§ 34. PUBLIC EDUCATION ON PROPANE TANK SAFETY

The general assembly finds that there is a need for a coordinated public safety message on the normal storage and handling of propane tanks and fuel oil tanks, and for the recovery of propane tanks and fuel oil tanks that are displaced by a natural disaster, such as flooding. The department of public service, the division of fire safety, and the agency of natural resources shall cooperate with relevant municipal, professional, and industry organizations to develop a variety of educational materials for distribution to the public to provide information on any special treatment of propane tanks that might be required in the event of a natural disaster, such as flooding.

Sec. 38. EFFECTIVE DATES

This act shall take effect on passage except that:

(1) Sec. 29 (VHCB; conservation easements) of this act shall take effect on July 1, 2012.

(2) Sec. 3 (stream alteration; prohibitions and exceptions) of this act shall take effect on March 1, 2013.

(3) Sec. 34 (ANR enforcement) of this act shall take effect on July 1, 2013.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committee on Fish, Wildlife and Water Resources agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Jewett of Ripton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 123. Nays, 14.

Those who voted in the affirmative are:

Acinapura of Brandon
Ancel of Calais
Andrews of Rutland City
Atkins of Winooski

Bartholomew of Hartland
Batchelor of Derby
Bissonnette of Winooski
Bohi of Hartford

Botzow of Pownal
Bouchard of Colchester
Branagan of Georgia
Browning of Arlington

Burditt of West Rutland	Howard of Cambridge	Olsen of Jamaica
Burke of Brattleboro	Howrigan of Fairfield	O'Sullivan of Burlington
Buxton of Tunbridge	Jerman of Essex	Partridge of Windham
Campion of Bennington	Jewett of Ripton	Pearce of Richford
Canfield of Fair Haven	Johnson of South Hero	Pearson of Burlington
Cheney of Norwich	Johnson of Canaan	Peltz of Woodbury
Christie of Hartford	Kilmartin of Newport City	Perley of Enosburgh
Clarkson of Woodstock *	Kitzmiller of Montpelier	Poirier of Barre City
Condon of Colchester	Klein of East Montpelier	Potter of Clarendon
Conquest of Newbury	Koch of Barre Town	Pugh of South Burlington
Consejo of Sheldon	Komline of Dorset	Ralston of Middlebury
Copeland-Hanzas of Bradford	Krebs of South Hero	Ram of Burlington
Corcoran of Bennington	Krowinski of Burlington	Reis of St. Johnsbury
Courcelle of Rutland City	Kupersmith of South Burlington	Russell of Rutland City
Dakin of Chester	Lanpher of Vergennes	Scheuermann of Stowe
Davis of Washington	Larocque of Barnet	Shand of Weathersfield
Deen of Westminster	Lenes of Shelburne	Sharpe of Bristol
Donaghy of Poultney	Leriche of Hardwick	Shaw of Pittsford
Donahue of Northfield	Lewis of Berlin	Spengler of Colchester
Donovan of Burlington	Lippert of Hinesburg	Stevens of Waterbury
Edwards of Brattleboro	Macaig of Williston	Stevens of Shoreham
Ellis of Waterbury	Malcolm of Pawlet	Stuart of Brattleboro
Emmons of Springfield	Manwaring of Wilmington	Sweaney of Windsor
Evans of Essex	Marek of Newfane	Taylor of Barre City
Fagan of Rutland City	Martin of Springfield	Till of Jericho
Fisher of Lincoln	Martin of Wolcott	Toll of Danville
Frank of Underhill	Masland of Thetford	Townsend of Randolph
French of Shrewsbury	McAllister of Highgate	Trieber of Rockingham
French of Randolph	McCullough of Williston	Waite-Simpson of Essex
Grad of Moretown	McFaun of Barre Town	Webb of Shelburne
Greshin of Warren	Miller of Shaftsbury	Wilson of Manchester
Haas of Rochester	Mook of Bennington	Wizowaty of Burlington
Head of South Burlington	Moran of Wardsboro	Woodward of Johnson
Heath of Westford	Mrowicki of Putney	Wright of Burlington
Hebert of Vernon	Munger of South Burlington	Yantachka of Charlotte
Helm of Fair Haven	Myers of Essex	Young of Glover
Hooper of Montpelier	Nuovo of Middlebury	Zagar of Barnard

Those who voted in the negative are:

Clark of Vergennes *	Eckhardt of Chittenden *	Marcotte of Coventry
Crawford of Burke	Higley of Lowell	Peaslee of Guildhall
Devereux of Mount Holly	Hubert of Milton	Savage of Swanton
Dickinson of St. Albans Town	Lawrence of Lyndon	Smith of New Haven
	Lewis of Derby	Strong of Albany

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Brennan of Colchester	Degree of St. Albans City

Gilbert of Fairfax
Keenan of St. Albans City
Lorber of Burlington

McNeil of Rutland Town
Morrissey of Bennington
O'Brien of Richmond

South of St. Johnsbury
Turner of Milton
Winters of Williamstown

Rep. Clarke of Vergennes explained his vote as follows:

“Mr. Speaker:

I can’t support H.202 until the promised fiscal note is presented.”

Rep. Clarkson of Woodstock explained her vote as follows:

“Mr. Speaker:

After experiencing the disaster that tropical storm Irene wrought on our communities I am pleased to vote ‘yes’ on S.202 – to improving regulations on our flood hazard areas and to encouraging our towns to increase their flood resiliency for the future.”

Rep. Eckhardt of Chittenden explained his vote as follows:

“Mr. Speaker:

I cannot vote for this bill in clear conscience without first taking a look at how much it is going to cost. I will await the fiscal note.”

Action on Resolution Postponed

J.R.H. 37

Joint resolution, entitled

Joint resolution expressing the General Assembly’s expectation that the full range of concerns and issues raised by the general public regarding the merger of Central Vermont Public Service Corporation and Green Mountain Power Corporation will be given full consideration, and that the final agreement must be in the best interests of the ratepayers and people of the State of Vermont

Was taken up and pending the question, Shall the resolution be adopted? on motion of **Rep. Canfield of Fair Haven**, action on the bill was postponed until the next legislative day.

House Resolution Adopted

H.R. 20

House resolution, entitled

House resolution encouraging the Vermont fish and wildlife board to amend the state administrative rules pertaining to fishing in order to authorize additional year-round fishing opportunities and the transporting of baitfish under designated circumstances

Which was taken up and adopted.

**Rules Suspended; Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed; Rules Suspended
and Bill Ordered Messaged to the Senate Forthwith**

H. 559

On motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to health care reform implementation

Appearing on the Calendar for notice, was taken up for immediate consideration.

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

Sec. 1. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

For purposes of this subchapter:

* * *

(5) “Qualified employer” ~~means an employer that:~~

(A) means an entity which employed an average of not more than 50 employees on working days during the preceding calendar year and which:

(i) has its principal place of business in this state and elects to provide coverage for its eligible employees through the Vermont health benefit exchange, regardless of where an employee resides; or

~~(B)(ii)~~ (ii) elects to provide coverage through the Vermont health benefit exchange for all of its eligible employees who are principally employed in this state.

(B) on and after January 1, 2016, shall include an entity which:

(i) employed an average of not more than 100 employees on working days during the preceding calendar year; and

(ii) meets the requirements of subdivisions (A)(i) and (A)(ii) of this subdivision (5).

(C) on and after January 1, 2017, shall include all employers meeting the requirements of subdivisions (A)(i) and (ii) of this subdivision (5), regardless of size.