House Calendar

WEDNESDAY, MAY 6, 2009

120th DAY OF BIENNIAL SESSION

House Convenes at 9:30 A. M.

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ACTION CALENDAR

Third Reading

S. 48

An act relating to marketing of prescription drugs.

Amendment to be offered by Rep. Helm of Castleton to S. 48

Moves that the House proposal of amendment be further amended as follows:

First: In Sec. 3, 18 V.S.A. § 4631, in subdivision (a)(4), by striking "food," following "payment,"

Second: In Sec. 3, 18 V.S.A. § 4631, in subdivision (b)(2), by adding a subdivision (H) to read as follows:

(H) Meals or other food or beverage, as long as they are not:

(i) part of an entertainment or recreational event;

(ii) offered without an informational presentation made by a marketing agent of a manufacturer of prescribed products or without such an agent present;

(iii) offered, consumed, or provided outside the health care professional's office, a hospital, a pharmacy, or a nursing home; or

(iv) provided to a health care provider's spouse or other guest.

Third: In Sec. 4, 18 V.S.A. § 4632, in subsection (a), by designating subdivision (2) as subdivision (2)(A) and by adding a subdivision (2)(B) to read as follows:

(B) Notwithstanding the provisions of subdivision (1) of this section, annually on or before October 1 of each year, each manufacturer of prescribed products shall disclose to the office of the attorney general all meals or other food or beverage provided to a health care provider or his or her staff, as allowed pursuant to subdivision 4631(b)(2)(H) of this title, in excess of $15.00 per person per occurrence. In addition to the information required to be reported pursuant to subdivision (4) of this subsection, the manufacturer shall report the name of each individual recipient, including each health care provider and each member of a health care provider's staff who received a meal or portion thereof, and the cost of the meal or other food or beverage

provided. For meals provided to more than one recipient, the cost attributable to each recipient shall be the total cost of the meal or other food or beverage divided by the total number of recipients.

Fourth: In Sec. 4, 18 V.S.A. § 4632, in subdivision (a)(4)(A), by striking "subdivision (a)(2)" and inserting in lieu thereof "subdivision (a)(2)(A)

Amendment to be offered by Rep. Copeland-Hanzas of Bradford to S. 48

Moves to amend the proposal of amendment of the Committee on Health Care as follows:

First: In Sec. 4, 18 V.S.A. § 4632, in subdivision (a)(1)(B), following "gift", by inserting "permitted under subdivision 4631a(b)(2) of this title"

Second: In Sec. 4, 18 V.S.A. § 4632, in subdivision (a)(4), in the introductory paragraph, following "gift", by inserting "permitted under subdivision 4631a(b)(2) of this title"

Third: In Sec. 4, 18 V.S.A. § 4632, in subdivision (a)(4)(A), following "allowable expenditure", by inserting "and gift permitted under subdivision 4631a(b)(2) of this title"

Fourth: In Sec. 4, 18 V.S.A. § 4632, by striking subdivision (a)(5) in its entirety and redesignating subdivision (a)(6) as (a)(5)

Fifth: In Sec. 4, 18 V.S.A. § 4632, by inserting a new subdivision (a)(6) to read as follows:

(6) After issuance of the report required by subdivision (a)(5) of this section, the office of the attorney general shall make all disclosed data used for the report publicly available and searchable through an Internet website.

Sixth: In Sec. 4, 18 V.S.A. § 4632, in subdivision (b)(2), by striking the comma following "4631a" and inserting in lieu thereof "and" and by striking "and 4633"

Seventh: By adding a new Sec. 8 to read as follows:

Sec. 8. HEALTH CARE COSTS IN CORRECTIONS WORK GROUP

(a) The director of health care reform, in consultation with the commissioner of corrections, shall convene a work group to:

(1) review the recommendations of the Heinz Family Philanthropies report entitled Making Connections: Utilizing the 340B Drug Pricing Program; and

(2) establish a mechanism for providing health services and prescriptions through a network of federally qualified health centers,

disproportionate share hospitals, and other covered entities eligible under the Veterans Health Care Act of 1992, Public Law 102-585, codified at Section 340B of the Public Health Service Act.

(b) The work group shall include representatives from:

(1) Bi-State Primary Care Association;

(2) Fletcher Allen Health Care;

(3) Vermont Association of Hospitals and Health Systems;

(4) Behavioral Health Network;

(5) Heinz Family Philanthropies; and

(6) other interested stakeholders.

(c) No later than July 31, 2009, the work group shall provide a report to the commission on health care reform and the corrections oversight committee.

Eighth: In Sec. 11, by adding a subdivision (3) to read as follows:

(3) Sec. 8 of this act, establishing a work group to examine health care costs in corrections, shall take effect upon passage.

and by renumbering the remaining sections to be numerically correct

S. 136

An act relating to reducing the drop-out rate in Vermont secondary schools to zero by the year 2020.

Amendment to be offered by Rep. Crawford of Burke to S. 136

Moves to amend the proposals of amendment of the Committee on Education as follows:

First: In Sec. 12, 16 V.S.A. § 1073(b)(3)(B)(i), in the final sentence, by striking the words "academic courses" and "courses" and inserting in lieu thereof the words "learning experiences"

Second: In Sec. 12, 16 V.S.A. § 1073(b)(3)(B)(iii), after the phrase "whose decision shall be final" and before the period, by inserting the following: "; any determination by the commissioner regarding "substantial equivalency" pursuant to subdivision (i) of this subdivision (b)(3)(B) shall be based on the commissioner's analysis of the course syllabus or the course description provided by the district of residence or enrolling school"

For Action Under Rule 52

J. R. H. 29

Joint resolution urging Congress to enact a new Homeowner and Bank Protection Act.

(For text see House Journal May 5, 2009)

NOTICE CALENDAR

Favorable with Amendment

H. 434

An act relating to agency of agriculture, food and markets revenues.

(**Rep. Partridge of Windham** will speak for the Committee on **Agriculture**)

Rep. Winters of Williamstown, for the Committee on **Ways and Means,** recommends the bill be amended as follows:

Moves that the bill be amended by striking Sec. 4 in its entirety

and by renumbering the existing Sec. 5 to be Sec. 4

(Committee vote: 10-0-1)

Senate Proposals of Amendment

H. 24

An act relating to insurance coverage for colorectal cancer screening.

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

First: In Sec. 1, in subsection (a), by striking out the word "third" and inserting in lieu thereof the word fourth

Second: In Sec. 2, 8 V.S.A. § 4100g, in subsection (d), by striking out the figure "$25.00" and inserting in lieu thereof the figure $100.00

Third: In Sec. 2, 8 V.S.A. § 4100g, in subsection (e), by striking out the figure "$25.00" and inserting in lieu thereof the figure $100.00

Fourth: By striking out Secs. 3 and 4 in their entirety and renumbering the remaining sections to be numerically correct

(For text see House Journal 2/12/2009 p.155; 2/13/2009 p. 165)

H. 80

An act relating to the use of chloramine as a disinfectant in public systems.

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

Sec. 1. ENGINEERING EVALUATION OF PUBLIC WATER SYSTEM DISINFECTION TREATMENT OPTIONS

The agency of natural resources shall, subject to available federal funding, conduct an engineering evaluation of public water systems in the state that have made or will be required to make modifications to their disinfection practices in order to comply with the U.S. Environmental Protection Agency's Stage 2 Disinfectant and Disinfection Byproducts Rule. The engineering evaluation shall be completed by an independent third party. The engineering evaluation shall include, to the extent possible under available federal funding:

(1) a comparative assessment of disinfectant treatment options;

(2) an analysis of the technical feasibility of implementing each of the assessed treatment options;

(3) an evaluation of whether implementation of an assessed treatment option will result in simultaneous compliance with all federal and state rules;

(4) an estimate of the capital, operating, and maintenance costs associated with implementation of each assessed treatment option; and

(5) an assessment of whether the capacity of a public water system restricts implementation of an assessed treatment option or would require additional operating requirements.

(b) On or before January 15, 2010, the agency shall report the results of the engineering evaluation required by this section to the senate committee on health and welfare, the senate committee on natural resources and energy, the house committee on fish, wildlife and water resources, and the house committee on human services.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage.

(For text see House Journal 3/25/2009 p. 476)

H. 152

An act relating to encouraging biomass energy production.

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

First: In Sec. 1, subsection (c), by striking out the words "house committee on agriculture" where it appears and inserting in lieu thereof the following: house and senate committees on agriculture

Second: In Sec. 1 by striking out the word "and" where it appears after the semicolon in subdivision (c)(2)(D) and by adding subdivisions (c)(2)(F) and (G) to read as follows:

(F) biomass procurement standards should require third-party certification; and

(G) a standard should be developed that would require biomass electricity generating facilities to provide for a fuel efficiency of at least 50 percent over the course of a full year.

Third: In Sec. 1, subsection (d), by striking out the words "house committee on agriculture" where it appears and inserting in lieu thereof the following: house and senate committees on agriculture

(For text see House Journal 4/9/2009 p. 628)

H. 171

An act relating to home mortgage protection for Vermonters.

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

First: In Sec. 1, 8 V.S.A. § 2204(a)(5), by striking out the words "The applicant, and each officer and director of the applicant" and inserting in lieu thereof the words The applicant, and each officer, director, and control person of the applicant

Second: In Sec. 2, 12 V.S.A. § 4532a, by adding a new subsection (c) to read as follows:

(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.

(For text see House Journal 4/16/2009 p. 691)

H. 405

An act relating to pre K-12 and higher education partnerships.

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

Sec. 1. POLICY, FINDINGS, AND PURPOSE

(a) It is the policy of the state of Vermont to make available as many opportunities as possible for Vermont students to succeed in their Pre-K-12 education, to encourage and facilitate high school students to progress toward higher education, and to prepare postsecondary students to succeed.

(b) Completing high school cannot be considered the minimum educational attainment. As stated by President Obama in his address before Congress on February 24, 2009, every American should "commit to at least one year or more of higher education or career training. This can be community college or a four-year school; vocational training or an apprenticeship. But whatever the training may be, every American will need to get more than a high school diploma. And dropping out of high school is no longer an option. It's not just quitting on yourself, it's quitting on your country — and this country needs and values the talents of every American. That is why we will provide the support necessary to … meet a new goal: By 2020, America will once again have the highest proportion of college graduates in the world."

(c) For Vermont to thrive economically it must develop, attract, and retain a well-educated and highly skilled citizenry, who will in turn enable the development, recruitment, and retention of successful businesses and support healthy communities.

(d) Higher levels of educational attainment translate into higher earnings and tax revenues, increased civic engagement and community contributions, better overall health, decreased dependency on government services, and an improved quality of life.

(e) To increase educational attainment among Vermonters, educational partnerships between higher education and the Pre-K-12 educational system are crucial to increasing postsecondary aspirations, increasing the enrollment of Vermont high school graduates in higher education programs, increasing the postsecondary degree completion rates of Vermont students, and increasing public awareness of the economic, intellectual, and societal benefits of higher education.

(f) To track student performance throughout a student's academic career and to understand better the programs and services that increase educational attainment and reduce performance disparities between students of different socioeconomic backgrounds, it is essential that Vermont implement a statewide Pre-K-12 longitudinal data system.

Sec. 2. STRATEGIES TO EXPAND EDUCATIONAL OPPORTUNITIES

(a) The Vermont state colleges, the University of Vermont, the association of Vermont independent colleges, the Vermont Student Assistance Corporation, and the department of education (collectively, the "working group") shall work together to develop strategies to expand educational opportunities for Vermont students to succeed in elementary and secondary school and to be prepared to succeed in postsecondary education as well. The working group, which shall be chaired by the Vermont state colleges, shall consult with representatives of institutions of higher education and of the Pre-K-12 education system, and with the workforce development, business, and industry communities.

(b) On or before January 15, 2010, the working group shall submit a report to the general assembly detailing its recommended strategies. When developing its recommendations, the working group shall consider and evaluate:

(1) Evidence-based educational models in Vermont and elsewhere, including early college programs, alternatives to a senior year, Pre-K-12 laboratory schools, statewide career awareness and postsecondary aspiration programs, and alternative school calendars.

(2) Partnerships between higher education and the Pre-K-12 system to improve instruction and increase postsecondary aspiration, preparedness, continuation, and completion rates.

(3) Potential funding sources for implementing its recommendations.

Sec. 3. ELECTRONIC STUDENT LONGITUDINAL DATA SYSTEM

The commissioner of education shall:

(1) Examine and evaluate student longitudinal data systems that are currently available and select one system to implement statewide. To the extent possible, the selected system shall be aligned with postsecondary data systems to create a statewide Pre-K-16 longitudinal data system. In addition, it shall comply with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), the Health Insurance Portability and Accountability Act (Pub. Law No. 104-191 §§ 262,264: 45 C.F.R. §§ 160-164), and any other applicable state or federal privacy law or regulation and shall conform to generally recognized data security standards.

(2) Apply for competitive grant monies through the American Recovery and Investment Act of 2009, Title XIII, Institute of Education Sciences, to fund implementation of a statewide Pre-K-12 longitudinal data system serving each school district, supervisory union, and technical center service region.

(3) To the extent funds are available, begin phased implementation of the data system no later than January 1, 2010, to be complete in all districts in the state by January 1, 2017.

(4) Report to the senate and house committees on education on or before January 15, 2010 regarding:

(A) The total grant dollars received, if any.

(B) The design and scope of the system.

(C) The implementation plan for the system, including transitional planning.

(D) Barriers to full implementation and recommendations for legislative or other action to ensure that all districts are able to participate.

(E) Options available to meet the purposes of this section if the state's application for grant funding was unsuccessful.

(5) Report to the senate and house committees on education on or before January 15, 2011 regarding implementation of this section and in January of each subsequent year until implementation is complete.

(For text see House Journal 4/14/2009 p. 653)

H. 444

An act relating to health care reform.

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

First: In Sec. 1, 18 V.S.A. § 9352, in subdivision (j)(2), following "exchange network", by adding "as long as nothing in such exchange or operation constitutes the practice of medicine pursuant to chapter 23 or 33 of Title 26"

Second: By inserting a new Sec. 17 to read as follows:

Sec. 17. SPECIAL ENROLLMENT PERIOD

(a) An individual who does not have an election of continuation of coverage as described in 18 V.S.A. § 4090a(a) in effect on the effective date of this act but who is an assistance eligible individual under Section 3001 of Title III of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (ARRA), may elect continuation coverage pursuant to this subsection by making such election within 60 days following the date the issuer of the policy provides notice of the right to elect coverage as required by Section 3001(a)(7) of the ARRA. The issuer of the policy shall provide such notice of the right to elect coverage no later than 30 days following the effective date of this act.

(b) Continuation coverage for an individual who elects coverage pursuant to subsection (a) of this section shall commence on the first day of the first month beginning on or after the effective date of this act and shall not extend beyond the period of continuation coverage that would have applied if the coverage had instead been elected pursuant to 18 V.S.A. § 4090a(a).

(c) Notwithstanding any provision of law to the contrary, for an individual who elects continuation coverage pursuant to this section, the period beginning on the date of the qualifying event pursuant to 18 V.S.A. § 4090a(b) and ending on the first day of the first month beginning on or after the effective date of this act shall be disregarded for purposes of determining the 63-day periods referred to in connection with preexisting condition exclusions in Section 701(c)(2) of the Employee Retirement Income Security Act of 1974, Section 9801(c)(2) of the Internal Revenue Code of 1986, and Section 2701(c)(2) of the Public Health Service Act, and the 90-day period referred to in connection with preexisting condition exclusions in 18 V.S.A. § 4080a(g).

Third: By striking out Sec. 21 in its entirety

Fourth: In Sec. 21a, by striking out the date "February 1, 2010" and inserting in lieu thereof the words upon approval of the waiver amendment pursuant to Sec. 21(a)(2) of this act and by redesignating Sec. 21a as Sec. 22

Fifth: By striking out the existing Sec. 22 in its entirety and inserting in lieu thereof a new section to be redesignated as Sec. 21 to read:

Sec. 21. GLOBAL COMMITMENT WAIVER AMENDMENTS; RULEMAKING

(a) No later than September 1, 2009, the secretary of human services shall request approval from the Centers for Medicare and Medicaid Services for amendments to the Global Commitment for Health Medicaid Section 1115 waiver to:

(1) implement the self-employment exception to the Catamount Health waiting period set forth in Sec. 15 of this act; and

(2) permit the agency of human services to amend the rules for the Vermont health access plan, the Catamount Health premium assistance program, and the employer-sponsored insurance premium-assistance programs to designate depreciation as an allowable business expense when determining countable income for eligibility purposes.

(b) During the pendency of the waiver amendment request pursuant to subdivision (a)(2) of this section, the agency of human services shall amend the rules for the Vermont health access plan, the Catamount Health premium assistance program, and the employer-sponsored insurance premium-assistance

programs to designate depreciation as an allowable business expense when determining countable income for eligibility purposes. The amended rules shall take effect upon approval of the waiver amendment, but in no event earlier than February 1, 2010.

Sixth: In Sec. 23, 2 V.S.A. § 903, in subdivision (b)(1)(D), by striking out "is requested to" preceding "report its findings" and inserting in lieu thereof the word shall

Seventh: In Sec. 26, 21 V.S.A. § 640a, by adding subsections (j), (k), and (l) as follows:

(j) An employer or insurance carrier shall not impose on any health care provider any retrospective denial of a previously paid medical bill or any part of that previously paid medical bill, unless:

(1) The employer or insurance carrier has provided at least 30 days' notice of any retrospective denial or overpayment recovery or both in writing to the health care provider. The notice must include:

(A) the injured employee's name;

(B) the service date;

(C) the payment amount;

(D) the proposed adjustment; and

(E) a reasonably specific explanation of the proposed adjustment.

(2) The time that has elapsed does not exceed 12 months from the later of the date of payment of the previously paid medical bill or the date of a final determination of compensability.

(k) The retrospective denial of a previously paid medical bill shall be permitted beyond 12 months from the later of the date of payment or the date of a final determination of compensability for any of the following reasons:

(1) The employer or insurance carrier has a reasonable belief that fraud or other intentional misconduct has occurred;

(2) The medical bill payment was incorrect because the health care provider was already paid for the health services identified in the medical bill;

(3) The health care services identified in the medical bill were not delivered by the health care provider;

(4) The medical bill payment is the subject of adjustment with another workers' compensation or health insurer; or

(5) The medical bill is the subject of legal action.

(l)(1) For purposes of subsections (j) and (k) of this section, for routine recoveries as described in subdivisions (A) through (J) of this subdivision (1), retrospective denial or overpayment recovery of any or all of a previously paid medical bill shall not require 30 days' notice before recovery may be made. A recovery shall be considered routine only if one of the following situations applies:

(A) Duplicate payment to a health care provider for the same professional service;

(B) Payment with respect to an individual for whom the employer or insurance carrier is not liable as of the date the service was provided;

(C) Payment for a noncovered service, not to include services denied as not medically necessary, experimental, or investigational in nature, or services denied through a utilization review mechanism;

(D) Erroneous payment for services due to employer or insurance carrier administrative error;

(E) Erroneous payment for services where the medical bill was processed in a manner inconsistent with the data submitted by the health care provider;

(F) Payment where the health care provider provides the employer or insurance carrier with new or additional information demonstrating an overpayment;

(G) Payment to a health care provider at an incorrect rate or using an incorrect fee schedule;

(H) Payment of medical bills for the same injured employee that are received by the employer or insurance carrier out of the chronological order in which the services were performed;

(I) Payment where the health care provider has received payment for the same services from another payer whose obligation is primary; or

(J) Payments made in coordination with a payment by a government payer that require adjustment based on an adjustment in the government-paid portion of the medical bill.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, recoveries which, in the reasonable business judgment of the employer or insurance carrier, would be likely to affect a significant volume of claims or accumulate to a significant dollar amount shall not be deemed routine, regardless of whether one or more of the situations in subdivisions (1)(A) through (J) of this subsection apply.

(3) Nothing in this subsection shall be construed to affect the time frames established in subdivision (j)(2) or subsection (k) of this section.

Eighth: By striking out Sec. 27 in its entirety

Ninth: In Sec. 29, 18 V.S.A. § 9418, in subsection (a)(8), by striking out the words "a workers' compensation policy of a casualty insurer,"

Tenth: In Sec. 29, 18 V.S.A. § 9418, in subsection (c), by inserting the words ", contracting entity, or payer" preceding "shall have ~~45~~ 30 days"

Eleventh: In Sec. 29, 18 V.S.A. § 9418, in subdivision (i)(2), by inserting the words "health care" preceding "provider" and by striking out the words of the insured following "provider"

Twelfth: In Sec. 29, 18 V.S.A. § 9418, in subdivision (i)(4), by striking out the word "insurer" and inserting in lieu thereof the word plan

Thirteenth: In Sec. 29, 18 V.S.A. § 9418, in subdivision (i)(5), by striking out the word "payment"

Fourteenth: In Sec. 29, 18 V.S.A. § 9418, in subsection (m), by striking out the second sentence in its entirety

Fifteenth: In Sec. 30, 18 V.S.A. § 9418a, in subsection (g), by striking out the word "covered" in both instances in which it appears

Sixteenth: In Sec. 30, 18 V.S.A. § 9418a, in subsection (h), by inserting "if applicable" following "provider newsletter" and in subdivision (h)(1), by striking out the words "the" preceding "commercially available" and inserting in lieu thereof the word any

Seventeenth: In Sec. 30, 18 V.S.A. § 9418a, by inserting a new subsection (j) to read as follows:

(j) For purposes of this section, "health plan" includes a workers' compensation policy of a casualty insurer licensed to do business in Vermont.

and by redesignating subsection (j) as subsection (k)

Eighteenth: In Sec. 32, 18 V.S.A. § 9418c, in subdivision (b)(4), following "List of products", by inserting ", product types," preceding "or networks"

Nineteenth: In Sec. 32, 18 V.S.A. § 9418c, in subsection (c), by striking out "subdivision (a)(1)" and inserting in lieu thereof subdivisions (a)(1)(A) and (B)

Twentieth: In Sec. 32, 18 V.S.A. § 9418c, by striking out subsection (f) in its entirety

Twenty-first: In Sec. 33, 18 V.S.A. § 9418d, in subdivision (c)(5), by striking out the period following "subdivision" and inserting in lieu thereof a colon

Twenty-second: In Sec. 33, 18 V.S.A. § 9418d, by striking out subsection (f) in its entirety

Twenty-third: In Sec. 34, 18 V.S.A. § 9418d, by striking out subsection (b) in its entirety

Twenty-fourth: In Sec. 35, 18 V.S.A. § 9418f, by striking out subdivisions (a)(1), (2), and (3) in their entirety and by renumbering the remaining subdivisions to be numerically correct; and by striking out the second sentence of subdivision (c)(4) in its entirety and inserting in lieu thereof "Fees collected under this subdivision shall be deposited into the health care special fund, number 21070, and shall be available to the commissioner to offset the cost of administering the registration process."

Twenty-fifth: In Sec. 35, 18 V.S.A. § 9418f, by striking out subsection (g) in its entirety

Twenty-sixth: In Sec. 38, by striking out "sections 9418c" and inserting in lieu thereof sections 9418b

Twenty-seventh: By striking out Sec. 40 in its entirety

Twenty-eighth: In Sec. 41, in the first sentence, by striking out the word "physicians" following "American College of Emergency" and inserting in lieu thereof the word Physicians

Twenty-ninth: In Sec. 43, 18 V.S.A. § 1130, in subsection (i), by striking out the word "establish" and inserting in lieu thereof the word adopt

Thirtieth: By inserting a new Sec. 44 to read as follows:

* * * Healthy Workers Program * * *

Sec. 44. INTENT

It is the intent of the general assembly to establish a healthy workers program to provide preventive health services, prenatal care, outreach, and education to workers employed in the Vermont agricultural sector.

Thirty-first: By adding a Sec. 45 to read as follows:

Sec. 45. HEALTHY WORKERS PROGRAM; REPORT

(a) As used in this section:

(1) "Health service" means any medically necessary treatment or procedure to maintain, diagnose, or treat an individual's physical or mental

condition, including services ordered by a health care professional and medically necessary services to assist in activities of daily living.

(2) "Immunizations" means vaccines and the application of the vaccines as recommended by the practice guidelines for children and adults established by the Advisory Committee on Immunization Practices to the Centers for Disease Control and Prevention.

(3) "Vermont farm health connection" means a consortium comprising Vermont's clinics for the uninsured, federally qualified health centers, and the Bi-State Primary Care Association working together to implement pilot programs in Addison and Franklin Counties to test design principles for a replicable system of high-quality health care for farm workers.

(b) The department of health shall collaborate with the Vermont farm health connection to:

(1) participate in the development of a sustainable, statewide infrastructure to provide outreach and health services to farm workers.

(2) provide access to:

(A) screening for communicable diseases;

(B) immunizations; and

(C) prenatal services.

(3) in consultation with the office of Vermont health access, research the required federal authority and fiscal implications of extending public health program benefits to pregnant women identified through the consortium's work.

(c) No later than January 15, 2010, the department of health and the Vermont farm health connection shall report to the senate committee on health and welfare and the house committee on health care regarding the status of the program's implementations and recommendations for any legislative action necessary to advance the goal of statewide outreach and access to health services for farm workers.

(d) No later than March 1, 2010, the Vermont farm health connection shall report to the senate committee on health and welfare and the house committee on health care regarding the results of its assessment of the needs of three to five additional Vermont counties for health care services for farm workers.

Thirty-second: By adding a Sec. 46 to read as follows:

Sec. 46. 9 V.S.A. chapter 80 is added to read:

CHAPTER 80. FLAME RETARDANTS

§ 2971. BROMINATED FLAME RETARDANTS

(a) As used in this section:

(1) "Brominated flame retardant" means any chemical containing the element bromine that is added to plastic, foam, or textile to inhibit flame formation.

(2) "Congener" means a specific PBDE molecule.

(3) "DecaBDE" means decabromodiphenyl ether or any technical mixture in which decabromodiphenyl ether is a congener.

(4) "Flame retardant" means any chemical that is added to a plastic, foam, or textile to inhibit flame formation.

(5) "Manufacturer" means any person who manufactures a final product containing a regulated brominated flame retardant or any person whose brand-name is affixed to a product containing a regulated brominated flame retardant.

(6) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, and shall include farm tractors and other machinery used in the production, harvesting, and care of farm products.

(7) "OctaBDE" means octabromodiphenyl ether or any technical mixture in which octabromodiphenyl ether is a congener.

(8) "PentaBDE" means pentabromodiphenyl ether or any technical mixture in which a pentabromodiphenyl ether is a congener.

(9) "PBDE" means polybrominated diphenyl ether.

(10) "Technical mixture" means a PBDE mixture that is sold to a manufacturer. A technical mixture is named for the predominant congener in the mixture, but is not exclusively made up of that congener.

(b) As of July 1, 2010, no person may offer for sale, distribute for sale, distribute for promotional purposes, or knowingly sell at retail a product containing octaBDE or pentaBDE.

(c) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2010, manufacture, offer for sale, distribute for sale, or knowingly sell at retail the following products containing decaBDE:

(1) A mattress or mattress pad; or

(2) Upholstered furniture.

(d) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2012, manufacture, offer for sale, distribute for sale, or knowingly

sell at retail a television or computer with a plastic housing containing decaBDE.

(e) This section shall not apply to:

(1) the sale or resale of used products; or

(2) motor vehicles or parts for use on motor vehicles.

(f) As of July 1, 2010, a manufacturer of a product that contains decaBDE and that is prohibited under subsection (c) or (d) of this section shall notify persons that sell the manufacturer's product of the requirements of this section.

(g) A manufacturer shall not replace decaBDE, pursuant to this section, with a chemical that is:

(1) Classified as "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen" in the most recent report on carcinogens by the National Toxicology Program in the U.S. Department of Health and Human Services;

(2) Classified as a "human carcinogen" or "probable human carcinogen" in the U.S. Environmental Protection Agency's most recent list of chemicals evaluated for carcinogenic potential; or

(3) Identified by the U.S. Environmental Protection Agency as causing birth defects, hormone disruption, or harm to reproduction or development.

(h) A violation of this section shall be deemed a violation of the Consumer Fraud Act, chapter 63 of Title 9. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under subchapter 1 of chapter 63 of Title 9.

(i) In addition to any other remedies and procedures authorized by this section, the attorney general may request a manufacturer of upholstered furniture, mattresses, mattress pads, computers, or televisions offered for sale or distributed for sale in this state to provide the attorney general with a certificate of compliance with this section with respect to such products. Within 10 days of receipt of the request for a certificate of compliance, the manufacturer shall:

(1) Provide the attorney general with a certificate declaring that its product complies with the requirements of this section; or

(2) Notify persons who sell in this state a product of the manufacturer's which does not comply with this section that sale of the product is prohibited, and submit to the attorney general a list of the names and addresses of those notified.

(j) The attorney general shall consult with retailers and retailer associations in order to assist retailers in complying with the requirements of this section.

Thirty-third: By adding a Sec. 47 to read as follows:

Sec. 47. 8 V.S.A. chapter 107, subchapter 11 is added to read:

Subchapter 11. Orally Administered Anticancer Medication

§ 4100g. ORALLY ADMINISTERED ANTICANCER MEDICATION; COVERAGE REQUIRED

(a) A health insurer that provides coverage for cancer chemotherapy treatment shall provide coverage for prescribed, orally administered anticancer medications used to kill or slow the growth of cancerous cells that is no less favorable on a financial basis than intravenously administered or injected anticancer medications covered under the insured's plan.

(b) As used in this section, "health insurer" means any insurance company that provides health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical service corporations, and health maintenance organizations. The term does not apply to coverage for specified disease or other limited benefit coverage.

Thirty-fourth: By adding a Sec. 48 to read as follows:

Sec. 48. ORALLY ADMINISTERED ANTICANCER MEDICATION STUDY

(a) The department of banking, insurance, securities, and health care administration shall study the impact of implementing a requirement for health insurance coverage of orally administered anticancer medication. In conducting the study, the department shall consider:

(1) projected impacts on health insurance premiums;

(2) options for mitigating the impact on premiums of the coverage requirement;

(3) the administrative complexities associated with the coverage requirement;

(4) the public policy implications of expanding required coverage for treatment-specific medications and procedures;

(5) appropriate safeguards for accomplishing the purpose of the coverage requirement; and

(6) such other factors as the department deems appropriate.

(b) No later than January 15, 2010, the department shall report its findings and recommendations to the senate committee on health and welfare and the house committee on health care.

Thirty-fifth: By adding a Sec. 49 to read as follows:

Sec. 49. APPROPRIATION

In fiscal year 2010, the sum of $3,000.00 is appropriated to the department of banking, insurance, securities, and health care administration from the health care special fund, number 21070, for the purpose of administering the registration fee pursuant to 18 V.S.A. § 9418f.

Thirty-sixth: By adding a new Sec. 50 to read as follows:

Sec. 50. HOSPITAL BUDGETS

(a) A number of health care reform initiatives in Vermont, including the Blueprint for Health, health information technology, and an exploration of the variations in hospital utilization, are expected to yield results in containing health care costs in this state. As Vermont is able to rein in health care spending, it is anticipated that hospitals will also play an important role by continuing to slow the increase in hospital budget growth.

(b) In approving hospital budgets for fiscal years 2010, 2011, and 2012, the goal of the commissioner of banking, insurance, securities, and health care administration shall be to lower the average systemwide rate increase for all Vermont hospital budgets below the average systemwide rate increase for all Vermont hospitals during the previous three years. As part of his or her efforts, the commissioner may:

(1) Establish an annual systemwide target rate increase;

(2) Limit expenditure growth, including restricting the introduction of new programs and program enhancements;

(3) Limit capital spending; or

(4) Implement other reasonable means to achieve the purposes of this section.

(c) In approving hospital budgets pursuant to section 9456 of Title 18, nothing in this section shall be deemed to limit the authority of the commissioner to consider individual hospital circumstances or the impact of individual budget increases on the overall cost of Vermont's health care system.

(d) No later than January 15 in the years 2010, 2011, and 2012, the commissioner of banking, insurance, securities, and health care administration

shall report the results of the annual hospital budget approvals to the senate committee on health and welfare and the house committee on health care.

Thirty-seventh: By striking out the existing Sec. 44 in its entirety and inserting in lieu thereof the following to be renumbered Sec. 51:

Sec. 51. EFFECTIVE DATES

(a) Secs. 14 through 17, inclusive, of this act shall take effect upon passage."

(b) Sec. 18, 8 V.S.A. § 4089k, of this act shall take effect on July 1, 2009, and the amendments to that section shall apply to the calculation, assessment, and payment of the health information technology reinvestment fee beginning on October 1, 2009.

(c) Secs. 19 and 20 (Catamount Health) shall take effect April 1, 2010.

(d) Sec. 21(b) (rulemaking on depreciation) shall take effect for the purposes of the rulemaking process on July 1, 2009, but the rule shall not take effect earlier than February 1, 2010.

(e) Health plans and contracting entities and payers shall comply with the amendments to Sec. 30, 18 V.S.A. § 9418(b), (c), (d), and (e) (payment for health care services), no later than July 1, 2010.

(f) Sec. 31, 18 V.S.A. § 9418a(c) and (d) (edit standards), shall take effect July 1, 2011.

(g) Sec. 33, 18 V.S.A. § 9418c(a)(1) through (4) (disclosure of payment information), with the exception of subdivision (a)(1)(C) (disclosure of claim edit information), shall take effect as follows:

(1) Contracting entities shall provide the information required in subdivisions (a)(1) through (3) beginning on July 1, 2009.

(2) Contracts shall obligate contracting entities to provide the information required in subdivision (a)(1) of this section, with the exception of subdivision (a)(1)(C), upon request beginning no later than September 1, 2009, and for all participating health care providers no later than January 1, 2010.

(3) Contracting entities and contracts shall comply with the provisions of subdivision (a)(1)(C) of this section no later than July 1, 2010.

(h) The summary disclosure form required by Sec. 33, 18 V.S.A. § 9418c(d), shall be included in all contracts entered into or renewed on or after July 1, 2009 and shall be provided for all other existing contracts no later than July 1, 2014.

(i) Contracting entities and covered entities shall comply with the provisions of Sec. 36, 18 V.S.A. § 9418f (rental networks), no later than January 1, 2010.

(j) This section, Sec. 38 (statutory revision), and Sec. 42 (stroke treatment study) shall take effect on passage.

(k) Sec. 47 shall take effect on April1, 2010 and shall apply to all health benefit plans on and after April 1, 2010 on such date as a health insurer offers, issues, or renews the health benefit, but in no event later than April 1, 2011.

(l) All remaining sections shall take effect on July 1, 2009.

and by renumbering all sections of the bill to be numerically correct

(For text see House Journal 4/16/2009 p. 766)

H. 446

An act relating to RENEWABLE ENERGY AND ENERGY EFFICIENCY.

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

First: In Sec. 4, 30 V.S.A. § 8005(b)(2), in the third sentence, by inserting "10 to" after each occurrence of the words shall be

Second: In Sec. 4, 30 V.S.A. § 8005(b)(2)(A), by striking out subdivision (v) in its entirety

Third: In Sec. 4, 30 V.S.A. § 8005(b)(2)(B)(i)(I), by striking out the second sentence and inserting in lieu thereof the following:

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.

Fourth: In Sec. 4, 30 V.S.A. § 8005(b)(2)(B)(i)(II), by inserting the words "on equity" after each occurrence of the word return

Fifth: In Sec. 4, 30 V.S.A. § 8005(b)(2)(B)(i)(III), after the words "such adjustment" by inserting the words to the generic costs and rate of return on equity determined under subdivisions (2)(B)(I) and (II) of this subsection

Sixth: In Sec. 4, 30 V.S.A. § 8005(b)(2)(C), in the first sentence, by inserting the words "on or before" after the first occurrence of the word and

Seventh: In Sec. 4, 30 V.S.A. § 8005(b)(2)(C), in the third sentence, by striking out the word "subdivisions" and inserting in lieu thereof the word subdivision and by striking out –(iii)

Eighth: In Sec. 4, 30 V.S.A. § 8005(b)(2)(C), in the third sentence, by striking out the words "on March 1 of the following year" and inserting in lieu thereof the words two months after the price has been reestablished

Ninth: In Sec. 4, 30 V.S.A. § 8005(b)(2)(D), by striking out ", subject to the provisions of subdivision (2)(E) of this subsection"

Tenth: In Sec. 4, 30 V.S.A. § 8005(b)(2), by striking out the new subdivision (E) in its entirety and by relettering subdivision (F) to be subdivision (E)

Eleventh: In Sec. 4, 30 V.S.A. § 8005(b)(4), by inserting the words "and third party developer" after the word provider

Twelfth: In Sec. 4, 30 V.S.A. § 8005(g)(2), in the second sentence, by striking out the date "July 15" and inserting in lieu thereof the date September 30

Thirteenth: In Sec. 4, 30 V.S.A. § 8005(g), by inserting a new subdivision (4) to read as follows:

(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.

Fourteenth: In Sec. 4, 30 V.S.A. § 8005(g), by renumbering the existing subdivision (4) as subdivision (5) and, in that subdivision, by striking out the words "in accordance with the rate design otherwise applicable to costs included in that revenue requirement" and inserting in lieu thereof the words as directed by the board

Fifteenth: In Sec. 4, 30 V.S.A. § 8005(j), by striking out the words "constitute combined heat and power, producing both electric power and thermal energy, with" and inserting in lieu thereof the word have and by striking out the number "70" and inserting in lieu thereof the number 50

Sixteenth: In Sec. 5, 10 V.S.A. § 6523(d)(4), after the words "may include" by inserting the words , and in the case of subdivision (4)(E)(ii) of this subsection shall include continuous funding for as long as funds are

available, and in subdivision (E), after the words "Vermont residences" by inserting , institutions, and after the word "businesses" by inserting a colon followed by:

(i) generally; and

(ii) through the small-scale renewable energy incentive program

Seventeenth: [DELETED]

Eighteenth: In Sec. 6, 30 V.S.A. § 218(f), by striking out subdivisions (2) and (3) in their entirety and inserting in lieu thereof:

(2) The board is authorized to provide to an electric distribution utility subject to rate regulation under this chapter an incentive rate of return on equity or other reasonable incentive on any capital investment made by such utility in a renewable energy generation facility sited in Vermont.

and by renumbering subdivision (4) to (3)

Nineteenth: By striking out Sec. 9 in its entirety and inserting lieu thereof the following Sec. 9:

Sec. 9. 32 V.S.A. § 5822(d) is amended to read:

(d) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits. A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided, further that, for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project. Any unused business solar energy investment tax credit under this section may be carried forward for no more than five years following the first year in which the credit is claimed.

Twentieth: By striking out Sec. 9a in its entirety and inserting in lieu thereof a new Sec. 9a to read:

Sec. 9a. 32 V.S.A. § 5930z is amended to read:

§ 5930z. PASS-THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS

(a) A taxpayer of this state shall be eligible for a credit against the tax imposed under section 5832 of this title in an amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided, further that for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.

Twenty-first: In Sec. 14, 30 V.S.A. § 209(h)(4)(B), by striking out the second and third sentences and inserting in lieu thereof the following:

The board shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section.

Twenty-second: In Sec. 14, 30 V.S.A. § 209(h)(4)(C), (H), (I), and (K), by striking out each occurrence of the word "department" and inserting in lieu thereof the word board

Twenty-third: In Sec. 14, 30 V.S.A. § 209(h)(4)(F), by inserting the words "board and" after the first occurrence of the word "the" and by striking out the second occurrence of the word "department" and inserting in lieu thereof the word board

Twenty-fourth: In Sec. 14, 30 V.S.A. § 209(h)(4)(G), in the first sentence, by striking out the words "department shall report to the board and" and inserting in lieu thereof the words board shall report to

Twenty-fifth: In Sec. 14, 30 V.S.A. § 209(h)(4), by striking out subdivision (J) in its entirety and relettering the remaining subdivisions (K), (L), (M), (N), and (O) to be (J), (K), (L), (M), and (N) respectively

Twenty-sixth In Sec. 14, 30 V.S.A. § 209(d)(4)(J) as renumbered by the 21st instance of amendment, in the second sentence, by striking out the words "and the participant"

Twenty-seventh: In Sec 14, 30 V.S.A. § 209(d)(4)(K) as renumbered by the 21st instance of amendment, by striking out "(h)(4)(K)" and inserting in lieu thereof (h)(4)(J)

Twenty-eighth: By adding a new Sec. 14a to read as follows:

Sec. 14a. 30 V.S.A. § 209(d)(4) is amended to read:

(4) The charge established by the board pursuant to subdivision (3) of this subsection shall be in an amount determined by the board by rule or order that is consistent with the principles of least cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the board shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the state's transmission and distribution infrastructure; minimizing the costs of electricity; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and the value of targeting efficiency and conservation efforts to locations, markets or customers where they may provide the greatest value. ~~The~~ No later than December 31, 2009, the board, by rule or order, shall establish a process by which a customer who pays an average annual energy efficiency charge under subdivision (3) of this subsection of at least $5,000.00 may apply to the board to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the board. The remaining portion of the charge shall be used for systemwide energy benefits. The board in its rules or order shall establish criteria for approval of these applications.

Twenty-ninth: By striking out Sec. 15 and inserting in lieu thereof Secs. 15 and 15a through 15k to read as follows:

* * * Vermont Village Green Renewable Pilot Program * * *

Sec. 15. FINDINGS AND PURPOSE

The general assembly finds all of the following:

(1) The use of fossil fuels for heat and power contributes to emissions of greenhouse gases and climate change.

(2) Fossil fuel prices in recent years have been highly volatile, and significant potential exists for those prices to reach rates that are equal to or greater than the exceptionally high prices seen within the last few years.

(3) Payments for fossil fuels by Vermonters involve the movement of significant sums of money outside the state and the country to pay for heating fuel, draining Vermont's economy.

(4) The state of Vermont seeks to ensure that Vermonters obtain a greater measure of control over the environmental impacts of energy use and energy costs.

(5) The state of Vermont seeks to increase its efforts to limit its emissions of greenhouse gases.

(6) Community energy infrastructure that uses renewable fuels can reduce the environmental impacts of energy use and provide a community with the opportunity to obtain heat and potentially power at stable prices that reduce the economic risks associated with fossil fuels. Local energy purchases recirculate money in the Vermont economy and can provide businesses with competitive energy rates.

(7) The state of Vermont seeks to establish incentives for communities to host energy generation that is renewable and efficiently utilized and that provides heat and potentially power to groups of commercial, industrial, or residential uses, or combinations of such uses, within the community.

Sec. 15a. 30 V.S.A. chapter 93 is added to read:

CHAPTER 93. VERMONT VILLAGE GREEN RENEWABLE PILOT PROGRAM

§ 8100. DEFINITIONS

In this chapter:

(1) "Board" means the public service board created under section 3 of this title.

(2) "Certification" or "certified," except when part of the phrase "third party certified," refers to certification of a Vermont village green renewable project by the department under subsection 8101(b) of this title.

(3) "Combined heat and power " or "CHP" shall have the meaning stated in 10 V.S.A. § 6523(b), except that:

(A) CHP excludes facilities using fossil fuel.

(B) CHP using woody biomass as a fuel must achieve, for that fuel, no less than a 50-percent net annual efficiency of energy utilized and, during the heating season, a minimum energy conversion efficiency of 70 percent considering all energy inputs and outputs at normal load.

(4) "Department" means the department of public service created under section 1 of this title.

(5) "District heating" means a system for distributing heat generated in a centralized location within a host community to multiple residential, commercial, or industrial uses within that community or a combination of such uses. The source of heat may be a dedicated heat-only facility using renewable energy as a fuel or waste heat from electrical generation that uses renewable energy as a fuel to form a CHP system.

(6) "District power" means a system for distributing electricity generated in a centralized location within a host community to multiple residential, commercial, or industrial uses in that community or a combination of such uses. The electricity must be produced using renewable energy as a fuel source and may include CHP.

(7) "Host community" means the municipality in which a Vermont village green renewable project is to be located.

(8) "Renewable energy" shall have the meaning stated in 10 V.S.A. § 6523(b)(4), except that renewable energy using woody biomass as a fuel must achieve, for that fuel, no less than a 50-percent net annual efficiency of energy utilized and, during the heating season, a minimum energy conversion efficiency of 70 percent considering all energy inputs and outputs at normal load.

(9) "Vermont village green renewable project" means district heating, either with or without district power, to serve a downtown development district designated as such pursuant to 24 V.S.A. § 2793 or a growth center designated as such pursuant to 24 V.S.A. § 2793c. As long as the end uses served by the project are within such a district or center, the generation of heat and power may be outside the district or center.

§ 8101. PILOT PROGRAM; CERTIFICATION

(a) The Vermont village green renewable pilot program is created to consist of no more than two Vermont village green renewable projects, one each in the city of Montpelier and in the town of Randolph. Another municipality may seek certification under this chapter in the event either the city of Montpelier or the town of Randolph or both decline to seek or are denied certification.

(b) On application of a host community, the department may certify a Vermont village green renewable project under this chapter on finding each of the following:

(1) The host community proposes a Vermont village green renewable project.

(2) The host community has submitted an application to the board that includes each of the following:

(A) A description and map of the proposed Vermont village green renewable project, showing its location within the host community.

(B) A complete description of the existing industrial, commercial, or residential uses to be served by the Vermont village green renewable project, of how the project will serve those uses, and of the billing, payment, and customer service arrangements.

(C) A letter submitted by the host community in support of the application and, if the host community has a town plan, the letter shall confirm that the proposed project is consistent with that plan.

(D) A letter issued by the appropriate regional planning commission indicating that the regional impacts of the proposed project and selected site have been considered and that the project conforms with the applicable regional plan.

(E) A letter from the Vermont downtown development board, as described under 24 V.S.A. § 2792(f), that the development board has been notified of the Vermont village green renewable project.

(3) The Vermont village green renewable project is consistent with the purposes of the clean energy development fund as established in 10 V.S.A. § 6523.

(4) The host community will invest in the Vermont village green renewable project the incentive created by the exemption from the sales and use tax provided under section 8102 of this title and has provided a plan that demonstrates that such investment will be made.

(5) The Vermont village green renewable project, if it uses woody biomass as a fuel, will use procurement standards, management practices, and a supply chain that are third party certified using a performance-based audit.

(6) The Vermont village green renewable project will comply with all applicable national ambient air quality standards and air pollution control regulations of the agency of natural resources. If, during 2009, the U.S. Environmental Protection Agency proposes updated emissions standards

applicable to wood-fueled boilers to be used in connection with the project, the project shall comply with such proposed standards.

(7) The Vermont village green renewable project meets all applicable requirements of this chapter.

(c) Notwithstanding any other provision of law, certification under this section shall not be subject to the provisions of 3 V.S.A. chapter 25 and shall not be subject to appeal.

(d) A host community does not need to obtain certification unless it seeks its Vermont village green renewable project to be eligible for the sales and use tax exemption under section 8102 of this title or rates for electricity as provided under subsection 8104(c) of this title. Certification shall not be required to qualify for net metering under section 219a of this title.

§ 8102. INCENTIVES; CUSTOMER CONNECTIONS

Notwithstanding any other provision of law, the clean energy development fund created under 10 V.S.A. § 6523 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.

§ 8103. HEAT AVAILABILITY

All of the heat generated by a Vermont village green renewable project shall be made available to the commercial, industrial, and residential users identified in the host community's application to the board under subsection 8101(b) of this title.

§ 8104. RATES FOR ELECTRICITY

(a) All or a portion of the electricity generated by a Vermont village green renewable project, if it includes district power, shall be made available to the commercial, industrial, and residential users identified in the host community's application to the board under subsection 8101(b) of this title.

(b) If a Vermont village green renewable project includes district power and does not qualify or opt for treatment as a net metering system under section 219a of this title:

(1) On petition of the host community, the board after notice and opportunity for hearing shall create a rate class for the commercial, industrial, and residential uses served by the project, the rates for which class at a minimum shall be consistent with the following principle: An end user shall pay the same share of the distribution utility's fixed costs as a similar end user not served by the project.

(2) Excess electricity may be sold to the distribution utility at the market rate or by contract.

§ 8105. REPORTING

(a) A host community for which a Vermont village green renewable project has been certified under this chapter shall file a report to the board and the commissioner of public service by December 31 of each year following certification. The report shall contain such information as is required by the board and the commissioner. The report shall include at a minimum sufficient information for the commissioner of public service to submit the report required by subsection (b) of this section.

(b) Beginning March 1, 2010, and annually thereafter, the commissioner of public service shall submit a report to the senate committees on economic development, housing and general affairs, on finance, and on natural resources and energy, the house committees on ways and means, on commerce and economic development, and on natural resources and energy, and the governor which shall include an update on progress made in the development of the Vermont village green renewable projects authorized under this chapter. The report also shall include an analysis of the costs and benefits of the projects as well as any recommendations consistent with the purposes of this chapter.

* * * Voluntary Energy Conservation * * *

Sec. 15b. 24 V.S.A. § 2291a is added to read:

§ 2291a. RENEWABLE ENERGY DEVICES

Notwithstanding any provision of law to the contrary, no municipality, by ordinance, resolution, or other enactment, shall prohibit or have the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources. This section shall not apply to patio railings in condominiums, cooperatives, or apartments.

Sec. 15c. 24 V.S.A. § 4413(g) is added to read:

(g) Notwithstanding any provision of law to the contrary, a bylaw adopted under this chapter shall not prohibit or have the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources.

Sec. 15d. 27 V.S.A. § 544 is added to read:

§ 544. ENERGY DEVICES BASED ON RENEWABLE RESOURCES

(a) No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy devices based on renewable resources from being

installed on buildings erected on the lots or parcels covered by the deed restrictions, covenants, or binding agreements. A property owner may not be denied permission to install solar collectors or other energy devices based on renewable resources by any entity granted the power or right in any deed restriction, covenant, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings. For purposes of this subsection, that entity may determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45° east or west of due south, provided that this determination does not impair the effective operation of the solar collectors.

(b) In any litigation arising under the provisions of this section, the prevailing party shall be entitled to costs and reasonable attorney's fees.

(c) The legislative intent in enacting this section is to protect the public health, safety, and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings, and resources by preventing measures which will have the ultimate effect, whether or not intended, of driving the costs of owning and operating commercial or residential property beyond the capacity of private owners to maintain. This section shall not apply to patio railings in condominiums, cooperatives, or apartments.

* * * Clean Energy Assessment Districts * * *

Sec. 15e. FINDINGS

The general assembly finds that it is in the public interest for municipalities to finance renewable energy projects and energy efficiency projects in light of the goals set forth in section 578 of Title 10 (greenhouse gas reduction goals), section 580 of Title 10 (25 by 25 state goal), and section 581 of Title 10 (building efficiency goals).

Sec. 15f. 24 V.S.A. § 1751(3) is amended to read:

(3) "Improvement," shall include, apart from its ordinary signification~~,~~:

(A) ~~the~~ The acquiring of land for municipal purposes, the construction of, extension of, additions to, or remodeling of buildings or other improvements thereto, also furnishings, equipment or apparatus to be used for or in connection with any existing or new improvement, work, department or other corporate purpose, and also shall include the purchase or acquisition of other capital assets, including licenses and permits, in connection with any existing or new improvement benefiting the municipal corporation, and all costs incurred by the municipality in connection with the construction or acquisition of the improvement and the financing thereof, including without

limitation capitalized interest, underwriters discount, the funding of reserves and the payment of contributions to establish eligibility and participation with respect to loans made from any state revolving fund, to the extent such payment is consistent with federal law;

(B) Pursuant to subchapter 2 of chapter 87 of this title, projects relating to renewable energy, as defined in subdivision 8002(2) of Title 30, or to eligible energy efficiency projects undertaken by owners of real property within the boundaries of the town, city, or incorporated village. Energy efficiency projects shall be those that are eligible under section 3267 of this title.

Sec. 15g. 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:

* * *

(23) Acting individually or in concert with other towns, cities, or incorporated villages and pursuant to subchapter 2 of chapter 87 of this title, to incur indebtedness for or otherwise finance by any means permitted under chapter 53 of this title projects relating to renewable energy, as defined in subdivision 8002(2) of Title 30, or to eligible energy efficiency projects undertaken by owners of real property within the boundaries of the town, city, or incorporated village. Energy efficiency projects shall be those that are eligible under section 3267 of this title.

Sec. 15h. SUBCHAPTER DESIGNATION

24 V.S.A. chapter 87 §§ 3251–3256 shall be designated as:

Subchapter 1. General Provisions

Sec. 15i. 24 V.S.A. § 3252 is amended to read:

§ 3252. PURPOSE OF ASSESSMENTS

Special assessments may be made for the purchase, construction, repair, reconstruction, or extension of a water system or sewage system, or any other public improvement which is of benefit to a limited area of a municipality to be served by the improvement, including those projects authorized under subchapter 2 of this chapter.

Sec. 15j. 24 V.S.A. chapter 87, subchapter 2 is added to read:

Subchapter 2. Clean Energy Assessments

§ 3261. CLEAN ENERGY ASSESSMENT DISTRICTS; APPROVAL OF VOTERS

(a) The legislative body of a town, city, or incorporated village may submit to the voters of the municipality the question of whether to designate the municipality as a clean energy assessment district. In a clean energy assessment district, only those property owners who have entered into written agreements with the municipality under section 3262 of this title would be subject to a special assessment, as set forth in section 3255 of this title.

(b) Upon a vote of approval by a majority of the qualified voters of the municipality voting at an annual or special meeting duly warned for that purpose, the municipality may incur indebtedness for or otherwise finance projects relating to renewable energy, as defined in subdivision 8002(2) of Title 30, or to eligible projects relating to energy efficiency as defined by section 3267 of this title, undertaken by owners of real property within the boundaries of the town, city, or incorporated village.

§ 3262. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS; ENERGY SAVINGS ANALYSIS

(a) Upon an affirmative vote made pursuant to section 3261 of this title and the performance of an energy savings analysis pursuant to subsection (b) of this section, an owner of real property within the boundaries of a clean energy assessment district may enter into a written agreement with the municipality that shall constitute the owner's consent to be subject to a special assessment, as set forth in section 3255 of this title. A participating municipality shall follow underwriting criteria, consistent with responsible underwriting and credit standards as established by the department of banking, insurance, securities, and health care administration, and shall establish other qualifying criteria to provide an adequate level of assurance that property owners will have the ability to meet assessment payment obligations. A participating municipality shall refuse to enter into a written agreement with a property owner who fails to meet the underwriting or other qualifying criteria.

(b) Prior to entering into a written agreement, a property owner shall have an analysis performed to quantify the project costs and energy savings and estimated carbon impacts of the proposed energy improvements, including an annual cash-flow analysis. This analysis shall be conducted by the entities appointed as energy efficiency utilities under subdivision 209(d)(2) of Title 30, or conducted by another entity deemed qualified by the participating municipality. All analyses shall be reviewed and approved by the entities appointed as energy efficiency utilities.

(c) A written agreement shall provide that:

(1) the length of time allowed for the property owner to repay the assessment shall not exceed the life expectancy of the project. In instances where multiple projects have been installed, the length of time shall not exceed the average lifetime of all projects, weighted by cost. Lifetimes of projects shall be determined by the entities appointed as energy efficiency utilities under subdivision 209(d)(2) of Title 30 or another qualified technical entity designated by a participating municipality;

(2) At the time of a transfer of property ownership excepting foreclosure, the past due balances of any special assessment under this subchapter shall be due for payment, but future payments shall continue as a lien on the property.

(3) A participating municipality shall disclose to participating property owners the risks associated with participating in the program, including risks related to the failure of participating property owners to make payments and the risk of foreclosure.

(d) A written agreement and the analysis performed pursuant to subsection (b) of this section shall be filed with the clerk of the municipality for recording in the land records of the municipality and shall be disclosed to potential buyers prior to transfer of property of ownership. Personal financial information provided to a municipality by a participating property owner or potential participating property owner shall not be subject to disclosure as set forth in subdivision 317(c)(7) of Title 1.

(e) At least 30 days prior to entering into a written agreement, the property owner shall provide to the holders of any existing mortgages on the property notice of his or her intent to enter into the written agreement.

(f) The total amount of assessments under this subchapter shall not exceed more than 15 percent of the assessed value of the property. The combined amount of the assessment plus any outstanding mortgage obligations for the property shall not exceed 90 percent of the assessed value of that property.

(g) In the case of an agreement with the resident owner of a dwelling, as defined in section 103(v) of the federal Truth in Lending Act:

(1) the assessments to be repaid under the agreement, when calculated as the repayment of a loan, shall not violate chapter 4 of Title 9;

(2) the maximum length of time for the owner to repay the loan shall not exceed 20 years; and

(3) the maximum amount to be repaid for the project shall not exceed $30,000.00 or 15 percent of the assessed value of the property, whichever is less.

§ 3263. COSTS OF OPERATION OF DISTRICT

The owners of real property who have entered into written agreements with the municipality under section 3262 of this title shall be obligated to cover the costs of operating the district. A municipality may use other available funds to operate the district.

§ 3264. RIGHTS OF PROPERTY OWNERS

A property owner who has entered into a written agreement with the municipality under section 3262 of this title may enter into a private agreement for the installation or construction of a project relating to renewable energy, as defined in subdivision 8002(2) of Title 30, or relating to energy efficiency as defined by section 3267 of this title.

§ 3265. LIABILITY OF MUNICIPALITY

(a) A municipality that incurs indebtedness for or otherwise finances projects under this subchapter shall not be liable for the failure of performance of a project.

(b) A municipality that incurs indebtedness for bonding under this subchapter shall pledge the full faith and credit of the municipality.

§ 3266. INTERMUNICIPAL AGREEMENTS

Two or more municipalities, by resolution of their respective legislative bodies or boards, may establish and enter into agreements for incurring indebtedness or otherwise financing projects under this subchapter.

§ 3267. ELIGIBLE ENERGY EFFICIENCY PROJECTS

Those entities appointed as energy efficiency utilities under subsection 209(d) of Title 30 shall develop a list of eligible energy efficiency projects and shall make the list available to the public on or before July 1 of each year.

§ 3268. RELEASE OF LIEN

(a) A municipality shall release a participating property owner of the lien on the property against which the assessment under this subchapter is made upon:

(1) Full payment of the value of the assessment; or

(2) Demand from a party who has filed an action for foreclosure on a participating property.

(b) If a municipality releases a participating property owner of a lien upon demand from a party who has filed an action for foreclosure and the participating property owner redeems the property, the municipality shall

reinstate the lien on the property against which the assessment under this subchapter is made.

(c) Notice of the release or reinstatement of the lien shall be filed with the clerk of the municipality for recording in the land records of the municipality.

§ 3269. RESERVE FUND

(a) A participating municipality may create a reserve fund for use in the event of a foreclosure upon an assessed property. The reserve fund shall be funded by participating property owners at a level sufficient to provide for the payment of any past due balances on assessments under this subchapter and any remaining principal balances on those assessments in the event of a foreclosure upon a participating property.

(b) The reserve fund shall be capitalized in accordance with standards and procedures approved by the commissioner of banking, insurance, securities, and health care administration to cover expected foreclosures based on good lending practice experience.

(c) The municipality shall disclose in advance to each interested property owner the amount of that property owner's required payment into the reserve fund. Once disclosed, the amount of the reserve fund payment shall not change over the life of the assessment.

Sec. 15k. 24 V.S.A. § 4592 is amended to read:

§ 4592. SUPPLEMENTARY POWERS

The bank, in addition to any other powers granted in this chapter, has the following powers:

* * *

(8) To the extent permitted under its contracts with the holders of bonds or notes of the bank, to consent to any modification of the rate of interest, time and payment of any installment of principal or interest, security or any other term of bond or note, contract or agreement of any kind to which the bank is a party; ~~and~~

(9) To issue its bonds or notes which are secured by neither the reserve fund nor the revenue bond reserve fund, but which may be secured by such other funds and accounts as may be authorized by the bank from time to time;

(10) To issue bonds, other forms of indebtedness, or other financing obligations for projects relating to renewable energy, as defined in subdivision 8002(2) of Title 30, or to energy efficiency projects under subchapter 2 of chapter 87 of this title. Bonds shall be supported by both the general obligation and the assessment payment revenues of the participating municipality.

(For text see House Journal 4/21/2009 p. 785; 4/22/2009 p. 867)

H. 447

An act relating to wetlands protection.

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

First: In Sec. 3, 10 V.S.A. § 902(6)(B), by striking out the following: "determined to be" where it appears and inserting in lieu thereof the following: identified in rules of the board as

Second: In Sec. 5, 10 V.S.A. §913(b)(C), by striking out the following: "of this subsection" where it appears and inserting in lieu thereof the following: of this subdivision (1)

Third: In Sec. 8, 10 V.S.A. § 8003(a)(5), by striking out the following: "relating to" where it appears and inserting in lieu thereof the following: relating to

Fourth: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. No. 183 of 1931 is amended to read:

~~Section 1. Change of name. The pond situated in the town of Bristol, commonly called Bristol Pond, is hereby named and designated as Winona Lake.~~

(For text see House Journal 4/14/2009 p. 615)

Senate Proposal of Amendment to House Proposal of Amendment

S. 129

An act relating to containing health care costs by decreasing variability in health care spending and utilization.

The Senate concurs with the House proposals of amendment with further amendment as follows:

First: By inserting a Sec. 10a to read as follows:

Sec. 10a. 18 V.S.A. § 9434(b)(3) is amended to read:

(3) The offering of a health care service or technology having an annual operating expense which exceeds $500,000.00 for either of the next two budgeted fiscal years, if the service or technology was not offered or employed, either on a fixed or a mobile basis, by the hospital within the previous three fiscal years.

Second: By striking out Sec. 15 and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. CONSUMER HEALTH CARE PRICE AND QUALITY INFORMATION; WEBSITE

On the front page of Vermont's state government website, the secretary of administration or designee shall prominently post a link, worded in a clear and understandable manner, to the price and quality information for consumers. The price and quality information shall be available in an easy-to-use format that is understandable to the average consumer.

(For text see House Journal 4/30/2009 p. 1316)

Report Committee of Conference

H. 91

An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon House Bill, entitled:

Respectfully report that they have met and considered the same and recommend that the Senate recede from its proposal of amendment, and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 15 V.S.A. § 1107 is amended to read:

§ 1107. FILING ORDERS WITH LAW ENFORCEMENT PERSONNEL; DEPARTMENT OF PUBLIC SAFETY PROTECTION ORDER DATABASE

(a) Police departments, sheriff's departments, and state police district offices shall establish procedures for filing abuse prevention orders issued under this chapter, chapter 69 of Title 33, chapter 178 of Title 12, protective orders relating to contact with a child issued under section 5115 of Title 33, and foreign abuse prevention orders and for making their personnel aware of the existence and contents of such orders.

(b) Any court in this state that issues an abuse prevention order under section 1104 or 1103 of this chapter, or that files a foreign abuse prevention order in accordance with subsection 1108(d) of this chapter, or that issues a protective order relating to contact with a child under section 5115 of Title 33,

shall transmit a copy of the order to the department of public safety protection order database.

Sec. 2. 33 V.S.A. § 5123 is added to read:

§ 5123. TRANSPORTATION OF A CHILD

(a) The commissioner of the department for children and families shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a child subject to this chapter in a manner that:

(1) reasonably avoids physical and psychological trauma;

(2) respects the privacy of the child; and

(3) represents the least restrictive means necessary for the safety of the child.

(b) The commissioner of the department for children and families shall have the authority to select the person or persons who may transport a child under the commissioner's care and custody.

(c) The commissioner shall assure supervisory review of every decision to transport a child using mechanical restraints. When transportation with restraints for a particular child is approved, the reasons for the approval shall be documented in writing.

(d) It is the policy of the state of Vermont that mechanical restraints are not routinely used on children subject to this chapter unless circumstances dictate that such methods are necessary.

Sec. 3. 33 V.S.A. § 5232 is amended to read:

§ 5232. DISPOSITION ORDER

(a) If a child is found to be a delinquent child, the court shall make such orders at disposition as may provide for:

(1) the child's supervision, care, and rehabilitation;

(2) the protection of the community;

(3) accountability to victims and the community for offenses committed; and

(4) the development of competencies to enable the child to become a responsible and productive member of the community.

(b) In carrying out the purposes outlined in subsection (a) of this section, the court may:

* * *

(6) Issue an order of permanent guardianship pursuant to section 2664 of Title 14.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

(For text see House Journal 4/15/2009 p. 672)

(For text see Senate Journal 4/6/2009 p. 650)

Ordered to Lie

H. R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

(For text see House Journal Monday, May 4, 2009)