

House Calendar

Wednesday, February 17, 2010

44th DAY OF ADJOURNED SESSION

House Convenes at 1:00 P.M.

TABLE OF CONTENTS

	Page No.
ACTION CALENDAR	
Third Reading	
H. 542 Transfers of mobile homes and rent-to-own transactions	217
Rep. Koch amendment.....	217
Favorable with amendment	
H. 281 The removal of bodily remains	217
Rep. Ram for General, Housing and Military Affairs	
H. 562 The regulation of professions and occupations	224
Rep. Evans for Government Operations	
Rep. Sharpe for Ways and Means.....	225
S. 117 The date of the primary election	225
Rep. Martin for Government Operations	
Rep. Koch Amendment	228
NOTICE CALENDAR	
Committee Bill for Second Reading	
H. 763 Establishment of an agency of natural resources' river corridor management program	230
Rep. Webb for Fish, Wildlife and Water Resources	
H. 764 The state teachers' retirement system of Vermont	230
Rep. Atkins for Government Operations	
Favorable with Amendment	
H. 268 Prohibiting mandatory overtime for health care employees	230
Rep. Moran for General, Housing and Military Affairs	
H. 524 Interference with or cruelty to a service animal	232
Rep. French for Judiciary	
S. 286 Challenges for change	234
Rep. Manwaring for Appropriations	
Ordered to Lie	
H.R. 19 Urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont	247

ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 542

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

Amendment to be offered by Rep. Koch of Barre Town to H. 542

First: In the third instance of amendment, in 9 V.S.A. § 2602(c)(2), in the mobile home uniform bill of sale, beneath the information line for the Buyer's Town/State/ZIP, by inserting the following:

If more than one Buyer, Buyers take title as:

Tenants in common

Joint tenants

Tenants by the entirety

Favorable with amendment

H. 281

An act relating to the removal of bodily remains

Rep. Ram of Burlington, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 5212 is amended to read:

§ 5212. PERMIT TO REMOVE DEAD BODIES

(a) A person desirous of disinterring or removing the body of a human being from one cemetery to another cemetery or to another part of the same cemetery or from a tomb or receiving vault elsewhere shall apply to the ~~town~~ clerk of the ~~town where such~~ municipality in which the dead body is interred or entombed for a removal permit.

(b) An applicant for a removal permit shall publish notice of his or her intent to remove the remains. This notice shall be published for two successive weeks in a newspaper of general circulation in the ~~town~~ municipality in which the body is interred or entombed. The notice shall include a statement that the spouse, child, parent ~~or~~ sibling, or descendant of the deceased or that the cemetery commissioner or other municipal authority responsible for cemeteries in the municipality may object to the proposed removal by filing a complaint in

the probate court of the district in which the body is located as provided in section 5212a of this title.

(c) The ~~town~~ municipal clerk shall issue a removal permit 45 days after the date on which notice was last published pursuant to subsection (b) of this section or, if an objection is made pursuant to section 5212a, upon order of the court.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, a removal permit shall be issued upon application:

- (1) when removal is necessary because of temporary entombment; or
- (2) to a federal, state, county, or municipal official acting pursuant to official duties; or
- (3) if the applicant has written permission to remove the remains from all persons entitled to object under section 5212a of this title.

(e) This section does not apply to:

(1) Unmarked burial sites which are subject to the provisions of subchapter 7 of this chapter.

(2) The removal of "historic remains," which has the same meaning as in subdivision 5217(a)(1) of this title.

Sec. 2. 18 V.S.A. § 5212a is amended to read:

§ 5212a. REMOVAL; OBJECTIONS

(a) Unless removal is otherwise authorized by law, the cemetery commissioner or other municipal authority responsible for cemeteries in the municipality in which remains are interred or entombed or a spouse, child, parent ~~or~~, sibling, or descendant of the deceased may, within 30 days after the date notice was last published under section 5212 of this title, object to the proposed removal by filing a complaint and a copy of the application in the probate court of the district in which the body is interred or entombed. A copy of the complaint shall be filed with the clerk of the ~~town where~~ municipality in which the body is interred or entombed and shall be mailed to the applicant for the removal permit.

(b) The probate court shall, after hearing, issue its order authorizing removal of the body unless the removal is one or more of the following:

(1) ~~removal would be contrary~~ Contrary to the expressed intent of the deceased; ~~or~~

(2) ~~removal is objected~~ Objected to by the surviving spouse of the deceased; ~~or~~

(3) ~~removal is objected~~ Objected to by an adult son or daughter of the deceased and there is no surviving spouse of the deceased;

(4) ~~removal is objected~~ Objected to by a parent of the deceased and there is no surviving spouse or son or daughter of the deceased;

(5) ~~removal is objected~~ Objected to by an adult sibling of the deceased and there is no surviving spouse, son or daughter, or parent of the deceased.

(6) Objected to by a descendant of the deceased and there is no surviving spouse, son or daughter, parent, or adult sibling of the deceased.

(7) Objected to by the cemetery association or other municipal cemetery authority responsible for cemeteries in the municipality in which the remains are interred or entombed, and there is no surviving spouse, son or daughter, parent, adult sibling, or known descendant of the deceased.

Sec. 3. 18 V.S.A. § 5217 is added to read:

§ 5217. REMOVAL OF HISTORIC REMAINS

(a) As used in this section:

(1) “Historic remains” means remains of a human being who has been deceased for 100 years or more and the remains are located in a publicly known or marked burial ground or cemetery.

(2) “Public good” means actions that provide for the greatest benefit of the people of the state of Vermont.

(3) “Remains” means cremated human remains that are in a container or the bodily remains of a human being.

(4) “Removal” means to transport human remains from one location to another location.

(b) A person may apply for a removal permit to disinter or remove historic remains by filing an application with the clerk for the municipality in which the historic remains are located. The application shall include all the following:

(1) Identification of the specific location and marking of the remains performed by a qualified professional archeologist using standard archeological procedures.

(2) Identification of the specific location in which the remains will be reburied.

(3) The purpose for the removal of the remains, including a statement of the public good that will result from the removal.

(c) An applicant for a removal permit to disinter or remove historic remains shall publish notice of the applicant's intent to remove the remains for two successive weeks in a newspaper of general circulation in the municipality in which the historic remains are located. The applicant shall also send notice by first-class mail to all the following:

(1) The cemetery commissioner or other municipal authority responsible for cemeteries in the municipality in which the historic remains are located.

(2) All historical societies located within the municipality in which the historic remains are located.

(3) The district environmental commission for the district in which the historic remains are located.

(4) The state archeologist.

(5) The Vermont Old Cemetery Association.

(6) The Vermont Cemetery Association.

(d) An objection to the proposed removal of historic remains shall be filed with the probate court for the district in which the historic remains are located and the clerk for the municipality in which the historic remains are located within 60 days after the date the notice was last published as required by subsection (c) of this section. An objection may be filed only by the following:

(1) A descendant of the deceased.

(2) The cemetery commissioner or other municipal authority responsible for cemeteries in the municipality in which the historic remains are located.

(3) An historical society located within the municipality in which the historic remains are located.

(4) The Vermont Historical Society.

(5) The Vermont Old Cemetery Association.

(6) The Vermont Cemetery Association.

(7) The state archeologist.

(8) Any veterans' organizations operating within the county in which the historic remains are located.

(e) If no objection is received within 60 days after the date the notice was last published as required by subsection (c) of this section, the municipal clerk shall issue a removal permit.

(f) If the probate court receives an objection within the 60-day period, the court shall notify the clerk for the municipality in which the historic remains are located and schedule a hearing on whether to allow removal as described in the application.

(g) The probate court, after hearing, shall order the municipal clerk to grant or deny a permit for removal of the historic remains. The court shall consider the impact of the removal on the public good.

(h) The permit shall require that all remains, markers, and relevant funeral-related materials associated with the burial site be removed and that the removal shall be conducted by a qualified professional archeologist in compliance with standard archeological process. All costs associated with the removal shall be paid by the applicant.

Sec. 4. 18 V.S.A. chapter 121, subchapter 7 is added to read:

Subchapter 7. Unmarked Burial Sites

§ 5601. DEFINITIONS

In this subchapter:

(1) “Treatment plan” means a plan or outline of a process for providing appropriate and respectful treatment of a burial site while considering the rights of the landowner and appropriate stakeholders, including affected Native American tribes or bands and veterans’ organizations. Each treatment plan shall include, as appropriate, the following:

(A) Methods for determining the presence of an unmarked burial site, including archeological surveys and assessments and other nonintrusive techniques.

(B) Methods for handling development and excavation on property on which there is a known burial site or there is likely to be one.

(C) Options for owners of property on which human remains are discovered or determined to be located.

(D) Procedures for protecting, preserving, and moving the burial site and human remains.

(E) Time frames for implementation of the plan.

(F) Procedures for resolving disputes among stakeholders.

(2) “Unmarked burial site” means the location of any interment of human remains or evidence of human remains, including the presence of red ochre, associated funerary objects, or a documented concentration of burial sites. “Unmarked burial site” does not include a cemetery, mausoleum, or

columbarium or any other site that is clearly marked as containing human remains.

§ 5602. DISTURBANCE OF AN UNMARKED BURIAL SITE

(a) When an unmarked burial site is first discovered, excavation or disruption of that site shall stop immediately. The discovery shall be reported immediately to a designated law enforcement officer or the state medical examiner. A person who, after discovering an unmarked burial site, proceeds to excavate, disinter, disturb, destroy, or remove any human remains or associated funerary objects from the unmarked burial site or aids in those activities may be subject to the penalties of 13 V.S.A. § 3761 unless the person is operating under a treatment plan approved by the commissioner of economic, housing and community development. This subsection does not apply to a medical examiner or state's attorney acting under section 5205 of this title.

(b) If, after an investigation pursuant to section 5205 of this title, a medical examiner determines that the burial site does not fall under the purview of the medical examiner's office, the medical examiner shall immediately notify the state archeologist who shall consult with stakeholders, including the municipality, the land owner, state or federally recognized Native American tribes, and any other appropriate interested organizations, to formulate a treatment plan. The state archeologist shall also make a reasonable effort to discover and consult with the closest likely descendents to formulate a treatment plan.

§ 5603. UNMARKED BURIAL SITES SPECIAL FUND

(a) The unmarked burial sites special fund is established in the state treasury for the purpose of protecting, preserving, moving, or reintering human remains discovered in unmarked burial sites.

(b) The fund shall be composed of any monies appropriated to the fund by the general assembly or received from any other source, private or public. Interest earned on the fund and any balance remaining in the fund at the end of a fiscal year shall be retained in the fund. This fund shall be maintained by the state treasurer and shall be managed in accordance with subchapter 5 of chapter 7 of Title 32.

(c) The commissioner of economic, housing and community development may authorize disbursements from the fund for use in any municipality in which human remains are discovered in unmarked burial sites, provided that the commissioner has approved a treatment plan for the site that has been developed pursuant to subsection 5602(b) of this title.

(d) The funds shall be used for the following purposes relating to unmarked burial sites:

(1) To implement a treatment plan approved by the commissioner of economic, housing and community development.

(2) To monitor excavations.

(3) To perform archeological assessments and archeological site or field investigations, including radar scanning and any other nonintrusive technology or technique designed to determine the presence of human remains.

(4) To provide mediation and other appropriate dispute resolution services.

(5) To acquire property or development rights, provided the commissioner of economic, housing and community development determines that disbursements for this purpose will not unduly burden the fund and further provided the commissioner shall expend funds for this purpose only with the concurrence of the secretary of commerce and community development and after consultation with the legislative bodies of any affected municipality or municipalities.

(6) Any other appropriate purpose determined by the commissioner of economic, housing and community development to be consistent with the purposes of this fund.

(e) The commissioner may adopt rules to carry out the intent and purpose of this section.

§ 5604. UNMARKED BURIAL SITE TREATMENT PLAN COMMITTEE

(a) The unmarked burial site treatment plan committee is created to develop procedures for addressing issues related to known or discovered unmarked burial sites including treatment plans to be used when an unmarked burial site is discovered on private property. The committee is composed of the following nine members:

(1) The commissioner of housing and community affairs, or designee.

(2) The state archeologist, or designee.

(3) A representative from the Vermont League of Cities and Towns, Inc.

(4) A representative from a Native American tribe based in Vermont who has experience handling unmarked burial sites, appointed by the commissioner of housing and community affairs.

(5) A federal archeologist from the Natural Resources Conservation Service of the U.S.D.A.

(6) The U.S. Forest Service, Green Mountain National Forests archeologist.

(7) The director of the University of Vermont consulting archeology program.

(8) A representative from the Vermont Bankers Association, Inc.

(9) A representative from the home Builders and Remodelers Association of Vermont.

(b) The committee shall:

(1) Develop procedures for responding to reports of a discovery of an unmarked burial site as defined in 18 V.S.A. § 5601(2).

(2) When notified of the discovery of an unmarked burial site on private property and after consultation with appropriate stakeholders, including affected Native American tribes or bands and veterans organizations, develop a treatment plan for the burial site.

(3) The committee shall issue an annual report describing the number and issues surrounding unmarked burial sites for which treatment plans were developed, including an outline of the procedures and treatment plans that have been implemented and the outcomes or resolutions of the implemented treatment plans. The report shall be posted on the website of the department of housing and community affairs.

Sec. 4. REPEAL

18 V.S.A. § 5212b, relating to a burial sites special fund, is repealed.

Sec. 5. EFFECTIVE DATE

This act shall take effect on September 1, 2010.

(Committee Vote: 8-0-0)

H. 562

An act relating to the regulation of professions and occupations

Rep. Evans of Essex, for the Committee on **Government Operations**, recommends the bill be amended as follows:

First: By striking Sec. 6 in its entirety

Second: In Sec. 45, 26 V.S.A. § 3320a(e), by striking the second instance of the word “a”

Third: By striking Sec. 53 in its entirety and inserting in lieu thereof a new Sec. 53 to read:

Sec. 53. REPEAL

26 V.S.A. §§ 1187 (secretary of state as agent for process for professional engineers); 1723 (use of diagnostic pharmaceutical agents by optometrists); 1724a (annual update of formulary for optometrists by the director of the office

of professional regulation); and 3178b (reinstatement of private investigator or security guard license) are repealed.

(Committee Vote: 10-0-1)

Rep. Sharpe of Bristol, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(Committee Vote: 11-0-0)

S. 117

An act relating to the date of the primary election

Rep. Martin of Wolcott, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 2351 is amended to read:

§ 2351. PRIMARY ELECTION

A primary election shall be held on the ~~second~~ fourth Tuesday ~~of September~~ in August in each even numbered year for the nomination of candidates of major political parties for all offices to be voted for at the succeeding general election, except candidates for president and vice-president of the United States, their electors, and justices of the peace.

Sec. 2. 17 V.S.A. § 2352 is amended to read:

§ 2352. NOMINATION OF CANDIDATES PRIOR TO SPECIAL ELECTION

When the governor or any court, pursuant to law, orders a special election to be held for any of the offices covered by section 2351 of this title, a special primary election shall be held on the Tuesday which falls not less than ~~40~~ 60 days nor more than ~~46~~ 66 days prior to the date set for the special election. The nomination of candidates prior to a special election, including nomination both by primary and by other means, shall be governed by the rules applicable to nomination of candidates prior to the general election, except as may be specifically provided in this chapter. The term "general election", as used in this chapter, shall be deemed to include a special election, unless the context requires a different interpretation.

Sec. 3. 17 V.S.A. § 2353(a) is amended to read:

(a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party for any office indicated, if petitions containing the requisite number of signatures made by legal voters,

in substantially the following form, are filed with the proper official, together with the person's written consent to having his or her name printed on the ballot:

I join in a petition to place on the primary ballot of the party the name of, whose residence is in the (city), (town) of in the county of, for the office of to be voted for on Tuesday, the day of ~~September~~ August, 20; and I certify that I am at the present time a registered voter and am qualified to vote for a candidate for this office.

Sec. 4. 17 V.S.A. § 2356 is amended to read:

§ 2356. TIME FOR FILING PETITIONS

Primary petitions shall be filed no sooner than the ~~first Monday in June~~ second Monday in May and not later than 5:00 p.m. on the ~~third Monday of July~~ second Thursday after the first Monday in June preceding the primary election prescribed by section 2351 of this title, and not later than 5:00 p.m. of the ~~42nd~~ 62nd day prior to the day of a special primary election.

Sec. 5. 17 V.S.A. § 2369 is amended to read:

§ 2369. DETERMINING WINNER; TIE VOTES

Persons who receive a plurality of all the votes cast by a party in a primary shall be candidates of that party for the office designated on the ballot. If two or more candidates of the same party are tied for the same office, the choice among those tied shall be determined:

(1) Upon five days' notice and not later than 10 days following the primary election, by the state committee of a party, for a state or congressional office; the senatorial district committee for state senate; the county committee for county office; or the representative district committee for a representative to the general assembly shall meet to nominate a candidate from among the tied candidates.

(2) ~~By run-off election for a county office, for a state senator, or for a representative to the general assembly. The run-off election shall be held on the fourth Tuesday of September and shall be conducted in the same manner as the primary election. The committee chair shall certify the candidate nomination for the general election to the secretary of state within 48 hours of the nomination.~~

Sec. 6. 17 V.S.A. § 2386 is amended to read:

§ 2386. TIME FOR FILING STATEMENTS

(a) Statements pursuant to this subchapter, except for vacancies created by the death or withdrawal of a candidate after the primary, shall be filed not ~~more than 60 days~~ earlier than the second Thursday after the first Monday in June before the day of the general election and not later than 5:00 p.m. on the ~~third day~~ Tuesday following the primary election.

(b) In the case of the death or withdrawal of a candidate after the primary election, the party committee shall have seven days from the date of the withdrawal to nominate a candidate. In no event, shall a statement be filed later than ~~40~~ 60 days prior to the election.

Sec. 7. 17 V.S.A. § 2402(d) is amended to read:

(d) A statement of nomination and a completed and signed consent form shall be filed not sooner than the ~~first Monday in June~~ second Thursday after the first Monday in June and not later than the third day after the primary election. No public official receiving nominations shall accept a petition unless a completed and signed consent form is filed at the same time.

Sec. 8. 17 V.S.A. § 2413(a) is amended to read:

(a) The party members in each town, on or before the ~~first Tuesday of September~~ fourth Tuesday of August in each even numbered year, upon the call of the town committee, may meet in caucus and nominate candidates for justice of the peace. The committee shall give notice of the caucus as provided in subsection (d) of this section and the chairman and secretary shall file the statements required in sections 2385 through 2387 of this title.

Sec. 9. 17 V.S.A. § 2479 is amended to read:

§ 2479. MANNER OF DISTRIBUTION

Not later than ~~30~~ 45 days before the election, the secretary of state shall furnish the prepared ballots to the clerk of each town. Ballots shall be sent in securely fastened packages by mail or in some other safe manner, with marks on the outside clearly designating the polling place for which they are intended and the number of ballots enclosed. The town clerk shall store the ballots, except for ballots used as early or absentee voter or sample ballots, in a secure place until the day of the election, at which time the town clerk shall deliver them in sufficient quantities to the presiding officer in each polling place, together with any ballots prepared by the town clerk.

Sec. 10. 17 V.S.A. § 2811 is amended to read:

§ 2811. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, POLITICAL COMMITTEES, AND POLITICAL PARTIES

(a) Each candidate for state office, each candidate for the general assembly who has made expenditures or received contributions of \$500.00 or more, and each political committee and each political party required to register under section 2831 of this title shall file with the secretary of state campaign finance reports ~~40 days before the primary election and on the 25th~~ on July 15th and on the 15th of each month thereafter ~~and continuing to the general election and 10 days after the general election~~ until and including December 15th.

(b) At any time, but not later than ~~40 days~~ December 15th following the general election, a candidate for state office and each candidate for the general assembly who has made expenditures or received contributions of \$500.00 or more shall file with the secretary of state a "final report" which lists a complete accounting of all contributions and expenditures, and disposition of surplus, and which shall constitute the termination of his or her campaign activities.

* * *

(Committee Vote: 11-0-0)

Amendment to be offered by Rep. Koch of Barre Town to S. 117

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

Sec. 1. 17 V.S.A. chapter 51, subchapter 6A is added to read:

Subchapter 6A. Uniformed Services and Overseas Voters

§ 2551. APPLICATION OF SUBCHAPTER

If there is a conflict between a provision set forth in this subchapter and any other provision of this chapter, the provision in this subchapter shall prevail.

§ 2551a. ELECTRONIC VOTING FOR UNIFORMED SERVICES AND OVERSEAS VOTERS

Uniformed services voters and overseas voters who have applied for absentee or early voter ballots and balloting materials may choose and shall be permitted to cast ballots electronically, either by e-mail or by a secure online system using virtual private network (VPN) or similar technology. The secretary of state shall adopt rules governing electronic voting and, in the secretary's discretion, may contract with a private voting service to administer the electronic voting system.

§ 2551b. USE OF FEDERAL WRITE-IN ABSENTEE BALLOTS

(a) Election officials shall permit absent uniformed services voters and overseas voters to use the Federal Write-In Absentee Ballot, in accordance with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff to vote for all offices in any general, special, primary, or

runoff election for federal, state, or local government office or public question.

(b) Election officials shall permit absent uniformed services voters and overseas voters to use the Federal Write-In Absentee Ballot voter declaration as a request for registration and an application for a military-overseas ballot simultaneous with the submission of the Federal Write-In Absentee Ballot, if the request is received by the later of the 15th day before the election or the last day for other voters in the state to apply for an early voter ballot for that election.

§ 2551c. EMERGENCIES; SPECIAL PROCEDURE TO FACILITATE ABSENTEE VOTING

If an international, national, state, or local emergency or other situation arises that makes substantial compliance with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et seq., impossible or impracticable, as confirmed by the existence of armed conflict involving United States Armed Forces or the mobilization of those forces, including state national guard and reserve component members of this state, or by the occurrence of a natural disaster or the existence of a state of emergency, civil unrest, war, or other exigency in a foreign country, or by an official declaration by the governor that a state of emergency exists, the governor directly, or by delegation to the secretary of state, may prescribe, by emergency order or rule, a special procedure or requirement as may be necessary to facilitate absentee voting by those absent uniformed services voters or overseas voters directly affected who are eligible to vote in this state. The secretary of state shall take reasonable steps to provide absent uniformed services voters and overseas voters with timely notice of any special procedure or requirement prescribed under this section.

Sec. 2. SPECIAL RULES FOR 2010

(a) Absentee ballots cast in the general election to be held on November 2, 2010 shall be counted if postmarked by the date of the general election and received on or before 5:00 p.m. on November 12, 2010.

(b) The secretary of state shall request a waiver pursuant to 42 U.S.C. section 1973ff, the Uniformed and Overseas Citizens Absentee Voter Act, for the general election of November 2, 2010.

Sec. 3. SECRETARY OF STATE REPORT

The secretary of state shall report to the house and senate committees on government operations by March 1, 2011 on:

(1) the feasibility of using electronic voting systems universally in Vermont elections; and

(2) responses by the United States Department of Justice with respect to other states who requested a waiver pursuant to the Uniformed and Overseas Citizens Absentee Voter Act.

Action Postponed Until May 28, 2010

Governors Veto

H. 436

An act relating to decommissioning funds of nuclear energy generation plants.

Pending Question: Shall the House sustain the Governor's veto?

NOTICE CALENDAR

Committee Bill for Second Reading

H. 763

An act relating to establishment of an agency of natural resources' river corridor management program.

(Rep. Webb of Shelburne will speak for the Committee on **Fish, Wildlife & Water Resources.**)

H. 764

An act relating to the state teachers' retirement system of Vermont.

(Rep. Atkins of Winooski will speak for the Committee on **Government Operations.**)

Favorable with Amendment

H. 268

An act relating to prohibiting mandatory overtime for health care employees

Rep. Moran of Wardsboro, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 1902(5) is added to read:

(5) "Health care professional" means an individual who:

(A)(i) is not a physician licensed under chapters 23 or 81 of Title 26;

(ii) is licensed, certified, or authorized by law to provide professional health care services or otherwise performs a patient-related function; and

(B) is employed by a hospital or has a contract with a hospital to provide health services in a hospital.

Sec. 2. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

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

* * *

(17) The board of health may, when circumstances warrant, issue a temporary license for ~~such a~~ a period or periods ~~and subject to such conditions as the board shall deem~~ deems proper, ~~subject to the limitation that such a~~ A temporary license shall not be issued for a total period of more than 36 months. ~~Such~~ These circumstances ~~shall include issues concerning~~ shall include indicators in the hospital's community report ~~which that~~ that may result in the board issuing a license conditioned upon corrective measures or a temporary license with conditions.

(18) All hospitals shall submit to the licensing agency a plan for implementing the provisions of section 1852 of this title and a plan for handling patient complaints, ~~which~~ The plan shall become effective upon approval by the licensing agency. Plans under this subdivision ~~shall~~ include:

(A) ~~the~~ The designation of a person or persons qualified as a patient representative;₂

(B) a A method by which each patient ~~shall be~~ is made aware of the complaint procedure;₂

(C) ~~an~~ An appeals mechanism within the hospital itself;₂

(D) a A published time frame for processing and resolving complaints and appeals within the hospital, and notification that further appeals of the hospital's resolution of complaints may be made to the licensing agency under chapter 43 of this title ;₂

(E) ~~periodic~~ Periodic reporting to the licensing agency of the nature of complaints filed; and action taken.

* * *

(22)(A) No hospital shall require a health care professional to work in excess of eight hours per day, in excess of 40 hours per week, or in excess of scheduled hours unless there is an unforeseeable emergency circumstance, or the health care professional agrees to work in excess of the regularly scheduled

work period, as provided for in subdivision (B). Any provision in a contract, agreement, or understanding which requires overtime in a non-emergency circumstance is unenforceable and void as against public policy.

(B)(i) This subdivision (22) does not apply if there is an unforeseeable emergency circumstance requiring overtime and the employer has exhausted other reasonable efforts to obtain staff, documented in writing the reasonable efforts taken, and the documentation is provided to the department of labor. The employer shall provide the health care professional sufficient time, up to one hour, to arrange for the care of the health care professional's minor children or elderly or disabled family members. If the emergency is a declared national, state, or municipal emergency or other disaster or catastrophic event that substantially affects or increases the need for health care services, the employer is not required to exhaust all reasonable efforts to obtain staff.

(ii) A health care professional may voluntarily work overtime in excess of an agreed-upon, predetermined, and regularly scheduled daily work period. An employer shall not penalize, discharge, dismiss, or discriminate against in any way any health care professional who refuses to accept overtime work.

(C) In addition to the actions available under section 1906 of this title, the department of labor shall fine an employer that violates this subdivision in the amount of \$500.00 for each violation.

(D) The employer shall post the requirements of this subdivision in a location accessible and visible to the employees and the public.

Sec. 3. DATA COLLECTION; OVERTIME

The department of labor shall collect data from all hospitals regarding the potential impact of the mandatory overtime prohibition on employee availability and other considerations. The findings shall be reported in writing to the senate committees on economic development, housing and general affairs and on health and welfare and the house committees on general, housing and military affairs, on human services, and on health care no later than 12 months after passage of this act.

(Committee Vote: 5-2-0-1 Abstention)

H. 524

An act relating to interference with or cruelty to a service animal

Rep. French of Shrewsbury, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 355 is added to read:

§ 355. INTERFERENCE WITH OR CRUELTY TO A GUIDE DOG

(a) As used in this section:

(1) "Custody" means the care, control and maintenance of a dog.

(2) "Guide dog" means a dog individually trained to do work or perform tasks for the benefit of an individual with a disability for purposes of guiding an individual with impaired vision, alerting an individual with impaired hearing to the presence of people or sounds, assisting an individual during a seizure, pulling a wheelchair, retrieving items, providing physical support and assistance with balance and stability, and assisting with navigation.

(3) "Notice" means a verbal or otherwise communicated warning regarding the behavior of another person and a request that the person stop the behavior.

(b) No person shall recklessly injure or cause the death of a guide dog, or permit a dog he or she owns or has custody of to injure or cause the death of a guide dog. A person who violates this subsection shall be imprisoned not more than two years or fined not more than \$3,000.00, or both.

(c) No person who has received notice or has knowledge that his or her behavior, or the behavior of a dog he or she owns or has custody of, is interfering with the use of a guide dog shall recklessly continue to interfere with the use of a guide dog, or allow the dog he or she owns or has custody of to continue to interfere with the use of a guide dog, by obstructing, intimidating, or otherwise jeopardizing the safety of the guide dog user or his or her guide dog. A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(d) No person shall interfere with the use of a guide dog, or permit a dog he or she owns or has custody of to interfere with a guide dog, by obstructing, intimidating, or otherwise jeopardizing the safety of the guide dog user or his or her guide dog. A person who violates this subsection commits a civil offense and shall be:

(1) for a first offense, fined not more than \$100.00.

(2) for a second or subsequent offense, fined not more than \$250.00.

(e) As provided in section 7043 of this title, restitution shall be considered by the court in any sentencing under this section if the victim has suffered any material loss. Material loss for purposes of this section means uninsured:

(1) veterinary medical expenses;

(2) costs of temporary replacement assistance services, whether provided by a person or guide dog;

(3) replacement value of an equally trained guide dog without any differentiation for the age or experience of the dog;

(4) loss of wages; and

(5) costs and expenses incurred by the person as a result of the injury to the guide dog.

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

(12) Violations of 13 V.S.A. § 352(3), (4), and (9), relating to cruelty to animals, and 13 V.S.A. § 355(e)(1) and (2), relating to interference with a guide dog.

and that after passage, the title of the bill be amended to read: “An act relating to interference with or cruelty to a guide dog”

(**Committee Vote: 9-1-1**)

S. 286

An act relating to challenges for change

Rep. Manwaring of Wilmington, for the Committee on Appropriations, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to implement the concepts laid out by the report “Challenges for Change: Results for Vermonters,” as prepared by the steering team to the joint legislative government accountability committee and presented to the committee on January 5, 2010.

(b) Vermont state government is faced with a substantial gap between available revenues and projected expenditures based on the current manner of providing services. This act challenges us to redesign how we provide government services. If the challenges are fully met, we will create better methods for providing government services, while spending less money and still achieving the outcomes specified in this act.

(c) This effort will address an estimated \$38 million of the general fund projected shortfall and \$11 million in property tax pressure in fiscal year 2011; and in fiscal year 2012, would reduce spending by \$72 million in general funds and \$26 million in property taxes from fiscal year 2010 levels.

(d) Unlike traditional cuts in spending, these challenges focus both on available funding levels and on the outcomes expected, in order to give our citizens better results with less money.

(e) These challenges would require continued efforts in design and implementation work. This act is starting the reform process by issuing challenges and providing some tools to succeed in meeting those challenges. State agencies, school districts, local governments, and other recipients of state funds will have the opportunity to use their expertise to shape the changes necessary to meet these challenges.

(f) This effort addresses only one-quarter of our fiscal year 2011 shortfall. Efforts to address the remaining budget shortfall will be part of the regular budget process.

(g) This act summarizes the eight challenges in the Challenge Report, establishes the outcomes for each challenge, and requests a design for implementation of each challenge and its related accountability measures. The legislature recognizes and expects this initiative to evolve as all parties together seek to meet these challenges.

(h) The outcomes identified for each of the challenges will be used to guide administrators, policy makers, executives, service providers, and employees in taking action to meet the challenges.

Sec. 2. CHARTER UNIT CHALLENGE

(a) The charter unit challenge is to identify units of state government which agree to improve specified results while spending a combined total of \$2 million less in fiscal year 2011 than in fiscal year 2010 and, in fiscal year 2012, spending \$4.5 million less than in fiscal year 2010, or by generating all or a portion of these amounts in entrepreneurial revenue. The charter units will enter into formal agreements with the secretary of administration to specify between three and eight measurable results to improve, and the flexibility in practices and procedures needed to accomplish the target results.

(b) Outcomes for the charter unit challenge:

(1) Meet challenge target of reducing spending or generating entrepreneurial revenue of \$2 million in general funds in FY2011 and \$4.5 million in general funds in fiscal year 2012.

(2) Increase employees' engagement in their work.

(3) Produce outcomes for Vermonters that are the same as or better than outcomes delivered prior to redesign.

(c) Design and implementation: Within four weeks of the enactment of this legislation, the persons to whom these challenges are issued shall provide the general assembly and the committees of jurisdiction with the following:

(1) A report on the proposed plan of implementation.

(2) A request for any changes to or exemptions from existing law, rules, and regulations, or additional authority necessary to meet these challenges and achieve these outcomes.

(3) A proposal for a system of accountability to measure success in meeting the challenges and achieving the outcomes. The proposed system shall include measures that are simple, objective, consistent, and based on data that are currently collected or could easily be collected. The proposed system shall also include a schedule for accountability in meeting these challenges and achieving these outcomes, and shall identify milestones, include assessments of effectiveness, and provide for quarterly meetings with the house and senate committees of jurisdiction. The proposed system shall be submitted for approval as provided in Sec. 10 of this act.

Sec. 3. PERFORMANCE CONTRACTING AND GRANT-MAKING

CHALLENGE

(a) The performance contracting challenge is to institute performance contracting and performance grant-making to achieve better results from contractors and grantees at a fiscal year 2011 cost which is 3.5 percent lower than fiscal year 2010 spending, and at a fiscal year 2012 cost which is 10 percent lower than fiscal year 2010 spending. The goal is to pay contractors based on results, while reducing the total price of contracts and grants. It is also to reduce the cost of compliance for vendors while maintaining compliance with essential state requirements. This challenge is directed to areas of government other than human services, which are addressed in Sec. 4 of this act.

(b) Outcomes for performance contracting and grants:

(1) Increase the use of performance contracts with the goal of converting \$70 million of contracts to performance-based contracts.

(2) Contractors and grantees meet performance targets specified in contracts.

(c) Design and implementation: Within four weeks of the enactment of this legislation, the persons to whom these challenges are issued shall provide the general assembly and the committees of jurisdiction with the following:

(1) A report on the proposed plan of implementation.

(2) A request for any changes to or exemptions from existing law, rules, and regulations, or additional authority necessary to meet these challenges and achieve these outcomes.

(3) A proposal for a system of accountability to measure success in meeting the challenges and achieving the outcomes. The proposed system shall include measures that are simple, objective, consistent, and based on data that are currently collected or could easily be collected. The proposed system shall also include a schedule for accountability in meeting these challenges and achieving these outcomes, and shall identify milestones, include assessments of effectiveness, and provide for quarterly meetings with the house and senate committees of jurisdiction. The proposed system shall be submitted for approval as provided in Sec. 10 of this act.

Sec. 4. HUMAN SERVICES CHALLENGE

(a) The client-centered, results-based, human services challenge to the state's human service administrators, employees, and service providers is to redesign delivery of the state's human services programs and health care system as a client-centered, integrated system that improves outcomes within budget constraints. There are four parts to this challenge:

(1) Client-centered intake and client-centered coordinated and managed services. Improve the outcomes for individuals and families receiving services from the agency of human services, while spending five percent less in fiscal year 2011 than in fiscal year 2010 and in fiscal year 2012 spending 10 percent less than in fiscal year 2010, by redesigning the delivery of services to be more efficient, interconnected, and targeted to achieve the essential outcomes with less duplication of services.

(2) Support services promoting independence of elders and individuals with disabilities. Maintain or improve services for elders and individuals with disabilities by redesigning how support services are provided and by allowing family members who desire to be caregivers to provide part of the support services, while spending two percent less in fiscal year 2011 than in fiscal year 2010 and five percent less in fiscal year 2012 than in fiscal year 2010.

(3) Expand the policy of using payment methods based on outcome measures. Redesign grants and contracts made by the agency to service providers to use payment methods to achieve spending five percent less in fiscal year 2011 than in fiscal year 2010 and 10 percent less in fiscal year 2012 than in fiscal year 2010, while maintaining or improving service.

(4) Outcomes-based contracts with the designated agencies. Improve the outcomes of individuals and families served by the 17 agencies designated under 18 V.S.A. § 8905 to provide mental health services and services to

individuals with a developmental disability, while spending five percent less in fiscal year 2011 than in fiscal year 2010 and 7.5 percent less in fiscal year 2012 than in fiscal year 2010, by enhancing collaboration among these agencies and by redesigning the contracts.

(b) The agency of human services shall be governed by the general outcomes in subdivision (1) of this subsection, while achieving the specific outcomes in subdivision (2):

(1) General outcomes.

(A) Children, families, and individuals are engaged in and contribute to their community's decisions and activities.

(B) Pregnant women and children thrive.

(C) Children are ready for school.

(D) Children succeed in school.

(E) Children live in safe, nurturing, stable, supported families.

(F) Youths choose healthy behaviors.

(G) Youths successfully transition to adulthood.

(H) Elders, people with disabilities, and individuals with mental health conditions live with dignity and independence in settings they prefer.

(I) Families and individuals live in safe and supportive communities.

(J) Adults lead healthy and productive lives.

(K) All Vermonters receive affordable and appropriate health care at the appropriate time, and health care costs are contained over time.

(L) Families and individuals move out of poverty through education and advancement in employment.

(2) Specific outcomes.

(A) Client-centered intake.

(i) Individuals and families will direct their own lives and will be supported in pursuing their own choices, goals, aspirations, and preferences.

(ii) Individuals and families will have access to apply for health and human services programs for which they are eligible through any department or office of the agency.

(B) Client-centered coordinated and managed services.

(i) Individuals and families will direct their own lives and will be supported in pursuing their own choices, goals, aspirations, and preferences.

(ii) The individual will be at the core of all plans and services and will be treated with dignity and respect.

(iii) Individuals and families with multiple needs will have more coordinated services with a single point of accountability to manage the services.

(iv) The agency and service providers will work across departments and organizations to interweave funding sources to ensure efficient and effective use of available funds to meet individuals' and families' needs in order to promote the outcomes in 3 V.S.A. § 3026 and this section.

(C) Support services promoting independence of elders and individuals with disabilities.

(i) The individual's personal and economic independence will be promoted.

(ii) Families who choose to be caregivers will be supported to provide available and appropriate services for elders and individuals with disabilities.

(iii) Families will receive relief from caregiving responsibilities in order to continue to provide care over the long term.

(iv) The agency and service providers shall work across departments and organizations to interweave funding sources to ensure efficient and effective use of available funds to meet individuals' and families' needs in order to promote the outcomes in 3 V.S.A. § 3026 and this section.

(D) Expand the policy of using payment methods based on outcome measures.

(i) Individuals' and families' needs will be met using best practices in a timely and cost-effective way.

(ii) Nongovernmental service providers will have one point of contact in state government to manage all their grants or contracts.

(iii) Each nongovernmental service provider will have performance measures or indicators based on the outcomes provided for in 3 V.S.A. § 3026.

(iv) Nongovernmental service providers will report performance measures or indicators of outcomes once for all grants or contracts with the agency to ensure efficient and simple administration.

(v) Positive outcomes will be pursued through effective, evidence-based practices by a trained and competent workforce.

(vi) The agency and nongovernmental service providers will work across departments and organizations to interweave funding sources to ensure efficient and effective use of available funds to meet individuals' and families' needs in order to promote the outcomes in 3 V.S.A. § 3026 and this section.

(E) Outcome-based contracts with the designated agencies.

(i) Intake will be client-centered as described in subsection.

(ii) Individuals' and families' needs will be met using best practices in a timely and cost-effective way.

(iii) The designated agencies will have one point of contact in state government to manage all their grants or contracts.

(iv) The designated agencies will have performance measures or indicators based on the outcomes provided for in 3 V.S.A. § 3026.

(v) The designated agencies will report performance measures or indicators of outcomes once for all grants or contracts with the agency to ensure efficient and simple administration.

(vi) Employees, representatives, and consumers of the designated agencies will be involved in the development of the performance measures or indicators included in the outcome-based contracts.

(vii) The agency of human services and the designated agencies shall work across departments and organizations to interweave funding sources to ensure efficient and effective use of available funds to meet individuals' and families' needs in order to promote the outcomes in 3 V.S.A. § 3026 and this section.

(c) Design and implementation: Within four weeks of the enactment of this legislation, the persons to whom these challenges are issued shall provide the general assembly and the committees of jurisdiction with the following:

(1) A report on the proposed plan of implementation.

(2) A request for any changes to or exemptions from existing law, rules, and regulations, or additional authority necessary to meet these challenges and achieve these outcomes.

(3) A proposal for a system of accountability to measure success in meeting the challenges and achieving the outcomes. The proposed system shall include measures that are simple, objective, consistent, and based on data that are currently collected or could easily be collected. The proposed system shall also include a schedule for accountability in meeting these challenges and achieving these outcomes, and shall identify milestones, include assessments

of effectiveness, and provide for quarterly meetings with the house and senate committees of jurisdiction. The proposed system shall be submitted for approval as provided in Sec. 10 of this act.

Sec. 5. CORRECTIONS CHALLENGE

(a) The corrections challenge is to the secretary of human services, commissioner of education, and administrative judge to collaborate to develop a plan which if implemented would reduce the number of people entering the corrections system, decrease the recidivism rate, improve community safety, and reduce the corrections budget by \$10 million in fiscal year 2011 and \$10 million in fiscal year 2012. In fiscal year 2011, \$3 million of the \$10 million saved, and in fiscal year 2012, \$2 million of the \$10 million saved shall be reinvested in programs and services which will reduce the number of people entering the criminal justice system and decrease the recidivism of those who do enter the system.

(b) Outcomes for corrections:

(1) Reduce the number of people returned to prison for technical violation of probation and parole while ensuring public safety.

(2) Reduce the number of people coming into the corrections system by engaging the human services community, the education community, and the community-based criminal justice system in identifying people at risk of committing a crime and providing services to them which will reduce criminal behavior.

(3) Ensure that nonviolent offenders are sent to prison only if no other options are available, and increase the number of nonviolent offenders diverted from prison into the community while ensuring public safety and providing effective consequences for criminal behavior.

(4) Increase services in the prisons which will reduce recidivism.

(5) Decrease recidivism by providing community services to help offenders successfully reenter the community.

(6) Investigate ways to produce a unified criminal prevention and justice system budget for presentation to the general assembly.

(7) Investigate ways to save money and increase revenues within the corrections system while ensuring public safety and reducing recidivism.

(8) Reduce short-term lodgings in department of corrections facilities.

(c) Design and implementation: Within four weeks of the enactment of this legislation, the persons to whom these challenges are issued shall provide the general assembly and the committees of jurisdiction with the following:

(1) A report on the proposed plan of implementation.

(2) A request for any changes to or exemptions from existing law, rules, and regulations, or additional authority necessary to meet these challenges and achieve these outcomes.

(3) A proposal for a system of accountability to measure success in meeting the challenges and achieving the outcomes. The proposed system shall include measures that are simple, objective, consistent, and based on data that are currently collected or could easily be collected. The proposed system shall also include a schedule for accountability in meeting these challenges and achieving these outcomes, and shall identify milestones, include assessments of effectiveness, and provide for quarterly meetings with the house and senate committees of jurisdiction. The proposed system shall be submitted for approval as provided in Sec. 10 of this act.

Sec. 6. EDUCATION CHALLENGES

(a) The focus on learning challenge is to education policy makers and school administrators to improve student learning and reduce costs of administration, resulting in education spending savings of \$13.3 million in fiscal year 2011, and education spending savings of \$40 million in fiscal year 2012. In fiscal year 2012, 25 percent of the total savings will be reinvested in instructional activities.

(b) The special education incentives challenge is to education policy makers and school administrators to improve special education student outcomes, including graduation rates and employment, while spending five percent less in fiscal year 2011 than in fiscal year 2010, and 7.5 percent less in fiscal year 2012 than in fiscal year 2010.

(c) The outcomes for education for the focus on learning and special education challenges are:

(1) Ensure that learning expectations, experiences, and assessments incorporate and emphasize the knowledge and skills that all students need to be successful in postsecondary education or training, in their careers, and as citizens in a global and technological society.

(2) Increase the secondary school graduation rates for all students.

(3) Increase the aspiration, continuation, and completion rates for all students in connection with postsecondary education and training.

(4) Ensure that educational governance structures, including K-12 school districts, meet the challenges and facilitate the outcomes stated in this act in the most cost-efficient manner.

(d) Design and implementation: Within four weeks of the enactment of this legislation, the persons to whom these challenges are issued shall provide the general assembly and the committees of jurisdiction with an initial design

and implementation plan to meet these challenges and achieve these outcomes. This plan shall include:

(1) a system of accountability to measure success in meeting the challenges and achieving the outcomes. The measures shall be simple, objective, consistent, and based on data that are currently collected or could easily be collected;

(2) a description of changes to or exemptions from existing law, rules, and regulations, or additional authority necessary to meet these challenges and achieve these outcomes; and

(3) a schedule of accountability for meeting these challenges and achieving these outcomes that includes proposed milestones, assessments of effectiveness, and quarterly meetings with the house and senate committees of jurisdiction.

Sec. 7. REGULATORY CHALLENGE

(a) The regulatory reform challenge is to the state's environmental and energy regulatory systems to achieve the current standards, goals, and requirements of federal and state law and regulation through improved administrative, application review, and compliance processes while spending three percent less in the agency of natural resources' and agency of agriculture, food and markets' budgets in each fiscal year 2011 and 2012 than in fiscal year 2010.

(b) Outcomes for regulatory reform: The secretary of natural resources, the secretary of agriculture, food and markets, the chair of the public service board, the chair of the natural resources board, the commissioner of public service, and the administrative judge shall protect Vermont's natural resources and collaborate to develop a plan that when implemented will meet the following outcomes:

(1) The permitting and licensing processes achieve environmental standards, and are clear, timely, predictable, and coordinated between agencies and municipalities.

(2) The permitting process enables applicants to readily determine what permits and licenses are needed and what information must be submitted to apply for those permits and licenses.

(3) The permit and enforcement processes enable citizens and visitors to the state of Vermont to understand and comply with the laws protecting our natural and agricultural resources.

(4) Permitting, licensing, and environmental protective services are cost-effective and user friendly.

(5) The decision-making process is transparent, and citizens understand and participate in the process.

(c) Design and implementation: Within four weeks of the enactment of this legislation, the persons to whom these challenges are issued shall provide the general assembly and the committees of jurisdiction with the following:

(1) A report on the proposed plan of implementation.

(2) A request for any changes to or exemptions from existing law, rules, and regulations, or additional authority necessary to meet these challenges and achieve these outcomes.

(3) A proposal for a system of accountability to measure success in meeting the challenges and achieving the outcomes. The proposed system shall include measures that are simple, objective, consistent, and based on data that are currently collected or could easily be collected. The proposed system shall also include a schedule for accountability in meeting these challenges and achieving these outcomes, and shall identify milestones, include assessments of effectiveness, and provide for quarterly meetings with the house and senate committees of jurisdiction. The proposed system shall be submitted for approval as provided in Sec. 10 of this act.

(d) The proposal for a system of accountability measures described in subdivision (c)(3) of this section shall also include measurements to determine the rate of compliance with time limits established under 3 V.S.A. § 2822(g) (time limits for agency of natural resource permit applications) and 10 V.S.A. § 6083(d) (time limits for Act 250 permit applications) and whether those time limits can be reduced.

Sec. 8. ECONOMIC DEVELOPMENT CHALLENGE

(a) The economic development challenge is to improve economic development results while spending \$3.4 million less in both fiscal years 2011 and 2012 than in fiscal year 2010.

(1) The challenges for change initiative calls for a \$3.4 million dollar reduction in economic development spending in both fiscal years 2011 and 2012 on economic development programs identified in the unified economic development budget in the agency of commerce and community development; the agency of administration; the agency of agriculture, food and markets; the department for children and families; the department of labor; and the department of public service, as well as economic development-related tax expenditures, incentives, and subsidies identified in the unified economic development budget, and in telecommunications.

(2) Of the \$34.26 million of appropriations in the unified economic development budget, approximately \$24.3 million comes from state funding and approximately \$9.95 million comes from federal funding.

(3) The challenge is to improve economic development results as described in this subsection by:

(A) identifying measurable results of improvement;

(B) designing evidence-based economic development strategies to achieve these improvements and the four goals of economic development identified in 10 V.S.A. § 3;

(C) directing available state funds to these strategies; and

(D) using objective, data-based indicators to measure performance of these strategies.

(b) Outcomes for economic development:

(1) Vermont achieves a sustainable annual increase in nonpublic sector employment and in median household income.

(2) Vermont attains a statewide, state-of-the-art telecommunications infrastructure.

(c) Design and implementation: Within four weeks of the enactment of this legislation, the persons to whom these challenges are issued shall provide the general assembly and the committees of jurisdiction with the following:

(1) A report on the proposed plan of implementation.

(2) A request for any changes to or exemptions from existing law, rules, and regulations, or additional authority necessary to meet these challenges and achieve these outcomes.

(3) A proposal for a system of accountability to measure success in meeting the challenges and achieving the outcomes. The proposed system shall include measures that are simple, objective, consistent, and based on data that are currently collected or could easily be collected. The proposed system shall also include a schedule for accountability in meeting these challenges and achieving these outcomes, and shall identify milestones, include assessments of effectiveness, and provide for quarterly meetings with the house and senate committees of jurisdiction. The proposed system shall be submitted for approval as provided in Sec. 10 of this act.

Sec. 9. APPROPRIATIONS REDUCTIONS AND INVESTMENTS

(a) In creating the challenges for change and design for implementation, the general assembly and the executive branch have worked together. In implementation, the executive branch will take the lead, in accordance with established outcomes and accountability measures and reporting, with a joint executive and legislative steering team, appointed by the joint government accountability committee, to oversee the implementation.

(b) In fiscal year 2011, the secretary of administration is authorized to reduce general fund appropriations or reduce other appropriated funds and make transfers to the general fund and is authorized to reinvest a portion of the

reduced funds, as specified in the following subsections. The secretary of administration, in consultation with the steering team, shall develop an initial outline for the use of these reinvestment funds in one-time expenditures which will most successfully implement the challenges. This outline should include investment criteria, should reserve a portion of the funding for future innovations not yet identified, and should provide both guidance and flexibility to the implementing agencies and departments. Agencies and departments may apply to the secretary of administration for reinvestment funds in accordance with the outline. The secretary of administration shall report at least monthly to the steering team and the joint legislative government accountability committee on funds reinvested to meet these challenges.

(c) The secretary of administration shall have the following authority for each of the challenges:

(1) Charter Units. In fiscal year 2011, the secretary may reduce up to \$3 million of general funds appropriated to units of government that become charter units or make similar transfers to the general fund and may reinvest up to \$1 million of these funds to foster Charter Unit innovation.

(2) Performance Contracting and Grant Making. In fiscal year 2011, the secretary may reduce total appropriations up to \$7 million and may reinvest up to \$500,000.00 related to performance contracting. Of the total reduction after reinvestment, \$2,600,000.00 shall be general fund appropriations reductions or result in transfers to the general fund.

(3) Human Services. In fiscal year 2011, the secretary may reduce total human service appropriations by \$46,040,000.00 and may reinvest up to \$4 million of these funds as needed to accomplish this challenge. Of the total reduction after reinvestment, \$16,816,000.00 shall be general fund appropriations reductions or shall result in transfers to the general fund.

(4) Corrections. In fiscal year 2011, the secretary may reduce general fund appropriations in the department of corrections or other criminal justice system organization budgets by \$10 million and may reinvest up to \$3 million to accomplish this challenge; resulting in a net general fund reduction of \$7 million.

(5) Education. Focus on Learning. In fiscal year 2011, the secretary shall reduce the general fund appropriation and transfer to the education fund by \$3,966,375.00. It is expected that as part of the implementation plan developed in this act, total local education spending related to administration will be reduced by \$13,332,500.00, and of this total, \$2 million of education funds will be allocated for reinvestment to meet the challenge, and the remainder will result in lower property taxes.

(6) Special Education Incentives. In fiscal year 2011, the secretary shall reduce the general fund appropriation and transfer to the education fund by \$2,100,000.00. It is expected that as part of the implementation plan

developed in this act, total special education spending will be reduced by \$7 million, and of this total, \$1 million of education funds will be allocated for reinvestment to meet the challenge, and the remainder will result in lower property taxes. It is anticipated that \$4,200,000.00 of this reduction will impact the special education grant.

(7) Regulatory Reform. In fiscal year 2011, the secretary may reduce total appropriations in the agencies of natural resources and agriculture by \$1,720,000.00 and may reinvest up to \$400,000.00 to accomplish this challenge. Of the total reduction after reinvestment, \$360,000.00 in general fund appropriations shall be reduced.

(8) Implement an Economic Development Strategy. In fiscal year 2011, the secretary may reduce total general fund appropriations related to economic development by \$3,430,000.00 and may reinvest up to \$400,000.00 to accomplish this challenge.

Sec. 10. ADDITIONAL LEGISLATIVE STEPS TO IMPLEMENT THE CHALLENGES FOR CHANGE

(a) Upon submission of the proposed systems of accountability to the committees of jurisdiction, those committees shall consider the proposed systems and make their recommendations to the joint government accountability committee (GAC) on whether the proposed systems will provide sufficient information for legislative oversight of progress toward the outcomes.

(b) GAC, upon recommendation from the committees of jurisdiction, shall vote whether the proposed systems are sufficient and should be accepted, in whole or in part. For any portion of the proposed systems not accepted, GAC shall request the secretary of administration to revise and resubmit new proposed systems to the committees of jurisdiction for their review and recommendation to GAC, followed by GAC's vote for acceptance or further request to the secretary of administration for revision and resubmission.

Sec. 11. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 11-0-0)

(No Senate Amendments)

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.

Pending Question: Shall the House adopt the resolution?

Public Hearings

Wednesday, February 17, 2010-Room 11 - 9:30 – 10:45 A.M. – House Committee on Appropriations – Governor’s Proposed 2011 State Budget

Wednesday, February 24, 2010 – Room 11 – 5:00 – 8:00 P.M. –House and Senate Education Committees – S. 252 Consolidation – School Districts

Joint Assembly

February 18, 2010 - 10:30 A.M. – Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than February 11, 2010 , by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.