

House Calendar

Friday, April 23, 2010

109th DAY OF ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Third Reading

S. 88

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

Amendment to be offered by Reps. Frank of Underhill, Andrews of Rutland City, Donahue of Northfield, Fisher of Lincoln, French of Randolph, Haas of Rochester, McFaun of Barre Town, Mrowicki of Putney, O'Donnell of Vernon, and Pugh of South Burlington to S. 88

Move that the House propose to the Senate that the bill be amended by inserting a new Sec. 40 to read:

Sec. 40. PEDIATRIC PALLIATIVE CARE

The agency of human services shall request a provision allowing Vermont to provide its Medicaid- and SCHIP-eligible children who have life-limiting illnesses with concurrent palliative services and curative care, either as part of its renewal of the state's Global Commitment for Health Medicaid Section 1115 waiver or as an amendment following renewal.

and by renumbering the remaining sections and internal references to be numerically correct

Amendment to be offered by Reps. Wright of Burlington, Consejo of Sheldon and Keenan of St. Albans City to S. 88

Move that the House propose to the Senate to amend the bill by striking Sec. 33 in its entirety and inserting in lieu thereof the following:

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

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

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

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

(i) royalties and licensing fees as described in subdivision

4631a(a)(1)(F) of this title;

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

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

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

(v) interview expenses as described in subdivision 4631a(a)(1)(G) of this title; and

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

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

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

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

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

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

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

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

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

(B) the name of the recipient;

(C) the recipient's address;

(D) the recipient's institutional affiliation;

(E) prescribed product or products being marketed, if any; and

(F) the recipient's state board number.

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

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

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

(5) 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.

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

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

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

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

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

Amendment to be offered by Reps. Koch of Barre Town, Branagan of Georgia, Dickinson of St. Albans Town, Donahue of Northfield, Komline of Dorset, McDonald of Berlin, and Scheuermann of Stowe to S. 88

Reps. Koch of Barre Town, Branagan of Georgia, Scheuermann of Stowe, McDonald of Berlin, Komline of Dorset, Dickinson of St. Albans Town and Donahue of Northfield move that the House propose to the Senate that the bill as amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ALIGNMENT WITH FEDERAL HEALTH CARE REFORM

(a) The commission on health care reform, in consultation with the agency of human services and the department of banking, insurance, securities, and health care administration, shall identify areas in which Vermont's health care system and Vermont's health care reform efforts as defined in 3 V.S.A. § 2222a can or must align with the provisions of the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152. In particular, the commission shall identify opportunities to receive federal funding, other impacts on Vermont's health care system or reform efforts, and necessary changes to Vermont's statutes and rules.

(b) No later than January 15, 2011, the executive director of the commission on health care reform shall report to the house committees on health care and on appropriations and the senate committees on health and welfare and on appropriations regarding the commission's findings and

recommendations, including plans for maximizing federal funds and implementing proposed changes to Vermont's laws and to its health care delivery in order to participate in and receive the benefits of the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

Amendment to be offered by Reps. Koch of Barre Town, and McDonald of Berlin to S. 88

Reps. Koch of Barre Town and McDonald of Berlin move that the House propose to the Senate that the bill be further amended in Sec. 2, by inserting a new subdivision (4) to read:

(4) Every Vermonter should be able to choose his or her primary care provider, as well as choosing providers of institutional and specialty care.

and by renumbering the remaining subdivisions to be numerically correct

Amendment to be offered by Reps. Koch of Barre Town and McDonald of Berlin to S. 88

Move that the House propose to the Senate that the bill be further amended in Sec. 2 by inserting a new subdivision (5) to read:

(5) The health care system will recognize the primacy of the patient-provider relationship, respecting the professional judgment of providers and the informed decisions of patients.

and by renumbering the remaining subdivisions to be numerically correct

Amendment to be offered by Rep. McDonald of Berlin to S. 88

Moves that the House propose to the Senate that the bill be further amended in Sec. 31 as follows:

First: In subsection (b), by striking “17” and inserting in lieu thereof “18”

Second: In subdivision (b)(13), by striking the word “and”

Third: In subdivision (b)(14), following “home health agencies” and preceding the period, by inserting “; and

(15) the commissioner of labor or designee”

Amendment to be offered by Reps Fagan of Rutland City, Acinapura of Brandon, Adams of Hartland, Baker of West Rutland, Brennan of Colchester, Crawford of Burke, Devereux of Mount Holly, Helm of Castleton, Higley of Lowell, Hubert of Milton, Koch of Barre Town, Komline of Dorset, McAllister of Highgate, McNeil of Rutland Town,

Olsen of Jamaica, Shaw of Florence, and Winters of Williamstown to S. 88

Move that the House propose to the Senate that the bill be amended in Sec. 26 by striking the second sentence in its entirety

Favorable with amendment

S. 122

An act relating to recounts in elections for statewide offices

Rep. Hubert of Milton, for the Committee on Government Operations, 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. 17 V.S.A. § 2370 is amended to read:

§ 2370. WRITE-IN CANDIDATES

A write-in candidate shall not qualify as a primary winner unless he or she has filed a declaration of candidacy for that office with the office as set forth in section 2414 of this title and unless he or she receives at least one-half the number of votes required for ~~his~~ the office on a primary petition, except that if a write-in candidate receives more votes than a candidate whose name is printed on the ballot, he or she may qualify as a primary winner. The write-in candidate who qualifies as a primary winner under this section must still be determined a winner under section 2369 of this title before he or she becomes the party's candidate in the general election.

Sec. 2. Secs. 6, 7, and 8 of No. 73 of the Acts of 2009 Adj. Sess. (2010) are amended to read:

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 ~~and statements for minor party candidates and independent candidates~~, shall be filed ~~not 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 Tuesday following the primary election~~ as set forth in section 2356 of this title.

(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 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 second Thursday after the first Monday in June and not later than the third day after the primary election~~ as set forth in section 2356 of this title. 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 is amended to read:

§ 2413. NOMINATION OF JUSTICES OF THE PEACE

(a) The party members in each town, on or before the ~~fourth~~ first 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 section 2385 through 2387~~ section 2385 through 2387 of this title not later than 5:00 p.m. on the third day following the primary election.

(b) If it does not hold a caucus as provided in subsection (a) of this section, the town committee shall meet and nominate candidates for justices of the peace as provided in sections 2381 through ~~2387~~ 2385 of this title.

(c) In any town in which a political party has not formally organized, any three members of the party who are voters in the town may call a caucus to nominate candidates for justice of the peace by giving notice as required in subsection (d) of this section. Upon meeting, the caucus shall first elect a chairman and a secretary. Thereafter the caucus shall nominate its candidates for justice of the peace, and cause its chairman and secretary to file the statements required in ~~sections section 2385 through 2387~~ section 2385 through 2387 of this title not later than 5:00 p.m. on the third day following the primary election.

* * *

Sec. 3. 17 V.S.A. § 2414 is added to read:

§ 2414. WRITE-IN CANDIDATES; DECLARATION OF CANDIDACY

(a) A person who has not been nominated by any other procedure set forth in this chapter and whose name will not appear on the ballot for a particular office may be written in on a ballot for any office in a primary, general, or special election. However, a “write-in” candidate shall file a declaration of candidacy for an office with the office of the secretary of state not later than 5 p.m. on the Friday preceding the election if the candidate wishes to have the votes cast for his or her name counted by name for that office. The secretary of state shall prepare and make available a declaration of candidacy form to be completed, signed, and filed by a “write-in candidate” before the deadline.

(b) The secretary of state shall notify all town clerks of each write-in

candidate who has filed a declaration of candidacy prior to the deadline. Each candidate who has filed a declaration of candidacy shall have votes cast recorded next to his or her write-in name in the vote counting process and shall have his or her votes reported by name on the official return of votes. If a declaration of candidacy has not been filed, the name of the write-in candidate shall not be recorded, but the vote cast shall be recorded as a “scattered write-in” on all counting forms and on the official return of votes.

Sec. 4. 17 V.S.A. § 2587(e) is amended to read:

(e) In the case of “write-in” votes, the act of writing in the name of a candidate, or pasting a label containing a candidate’s name upon the ballot, without other indications of the voter’s intent, shall constitute a vote for that candidate, even though no cross is placed or no oval is filled in after such name. ~~The~~ If a declaration of candidacy was timely filed and the office of the secretary of state has notified the town, the election officials counting ballots and tallying results ~~must~~ shall list the name of the candidate on the tally sheet and record the number of votes received next to the candidate’s name. For every ~~other~~ person who receives a “write-in” vote ~~and the number of votes received,~~ but who did not file a declaration of candidacy, the election officials shall record the vote next to “scattered write-ins”. On each tally sheet, the counters shall add together the names of candidates who have filed a declaration of candidacy that are clearly the same person, even though a nickname or only a last name is used. Names of candidates who did not file a declaration of candidacy and names of fictitious persons shall not be listed individually by name, but each vote shall be recorded and counted as a scattered write-in vote on tally sheets, summary sheets, and the official return of votes.

Sec. 5. 17 V.S.A. § 2601 is amended to read:

§ 2601. RECOUNTS

¶ In an election for statewide office, county office, or state senator, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is less than two percent of the total votes cast for all the candidates for an office, that losing candidate shall have the right to have the votes for that office recounted. In an election for all other offices, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is less than five percent of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

Sec. 6. 17 V.S.A. § 2681(f) and (g) are added to read:

(f) A person who has not been nominated by any other procedure described in this chapter and whose name will not appear on the ballot for a particular office may be written in on a ballot in any municipal election for any office. However, a write-in candidate shall file a declaration of candidacy with the office of the town clerk not later than 5 p.m. on the Friday preceding the election if the candidate wishes to have the votes cast for his or her name counted by name for an office. The town clerk shall make available the declaration of candidacy form prepared by the secretary of state to be completed, signed, and filed by the “write-in” candidate before the deadline.

(g) The town clerk shall prepare a list of write-in candidates for each office who have filed a declaration of candidacy prior to the deadline. Each candidate who has filed a declaration of candidacy shall have votes cast recorded by his or her write-in name in the vote-counting process and reported by name on the official return of votes. If a declaration of candidacy has not been filed, the name of the write-in candidate shall not be recorded, and the vote cast shall be recorded as a “scattered write-in” on all counting forms and on the official return of votes.

Sec. 7. 17 V.S.A. § 2682(c) is amended to read:

(c) In a municipal election controlled by this subchapter, the person receiving the greatest number of votes for an office shall be declared elected to that office; a certificate of election need not be issued. However, in order to have a write-in candidate counted by name and to be elected as a write-in candidate ~~must~~, the write-in candidate shall have filed a declaration of candidacy with the town clerk as set forth in subsection 2681(f) of this title and shall receive 30 votes or the votes of one percent of the registered voters in the municipality, whichever is less.

Sec. 8. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 10-0-1)

(For text see Senate Journal 4/7/ & 4/10/10)

S. 165

An act relating to eliminating the statute of limitations for felonies

Rep. Jewett of Ripton, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended as follows:

By changing the title of the bill to read: “An act relating to waiver of the statute of limitations in criminal prosecutions”

(Committee vote: 10-0-1)

(For text see Senate Journal 1/26/10)

S. 268

An act relating to the building bright futures council

Rep. Frank of Underhill, for the Committee on Human Services, 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. FINDINGS

The general assembly finds that:

(1) While Vermont has a wide range of high-quality programs for families and young children, a report issued by the Smart Start National Technical Assistance Center states, "Vermont's early childhood system might be best described as many diverse patches, or pieces, ready to be linked and sewn together into a New England patchwork quilt."

(2) In order to address issues of overlap and fragmentation, program accountability, and equitable access to services across the state, engaged community members, policy-makers, early childhood service providers, and advocates agree that there is a need for a comprehensive and integrated system for all children below the age of six and their families in Vermont who are in need of and desiring such services.

(3) Research shows that a child's "environment of relationships" has a critical impact on developing brain architecture during the first months and years of life.

(4) There are approximately 39,000 children under the age of six in Vermont, including over 5,500 in poverty, 11,000 living in single-parent households, 20,489 living in two-parent households with both parents in the labor force, and approximately 1,300 young children with developmental delays.

(5) An estimated 23,000 children under the age of six are enrolled full- or part-time in over 1,900 registered or licensed child care programs funded by a combination of parent fees and public dollars such as the Child Care Financial Assistance Program and the Education Fund. Programs that receive no public funds generally have little to no formal connection to an overall early childhood system with established goals and policies for addressing the needs of young children.

(6) In addition to the care by their parents and families, thousands of Vermont children from a range of socioeconomic backgrounds receive services, support, or both from state, federal, and private programs. Many children are served by multiple programs with no mechanism in place to ensure a holistic, family-centered approach to service delivery. Early

childhood services are important to the economic well-being of families throughout the state. They have a positive impact on the state's labor supply and influence the overall economic competitiveness of the state.

(7) Section 642B of the federal Improving Head Start for School Readiness Act of 2007 mandates that the governor "designate or establish a council to serve as the State Advisory Council on Early Childhood Education and Care for children from birth to school entry, and the Governor may designate an existing entity in the State to serve as the State Advisory Council." The governor has designated the building bright futures state council as Vermont's entity.

(8) In November 2009, the building bright futures state council adopted a conceptual framework based on the work of Dr. Jack Shonkoff, a Harvard University professor and one of the nation's foremost experts on early childhood learning.

Sec. 2. 33 V.S.A. chapter 46 is added to read:

CHAPTER 46. BUILDING BRIGHT FUTURES COUNCIL

§ 4601. DEFINITIONS

As used in this chapter:

(1) "Early care, health, and education" means all services provided to families expecting a child and to children up to the age of six, including child care, family support, early education, mental and physical health services, nutrition services, and disability services.

(2) "Regional council" means a regional entity linked to the state building bright futures council to support the creation of an integrated system of early care, health, and education at the local level.

§ 4602. BUILDING BRIGHT FUTURES COUNCIL

(a) The building bright futures program shall be governed by a statewide council comprising no more than 23 members. The building bright futures council's membership shall be as follows:

- (1) the secretary of human services or designee;
- (2) the secretary of commerce and community development or designee;
- (3) the commissioner of education;
- (4) the commissioner for children and families;
- (5) the commissioner of health;
- (6) the commissioner of mental health;

(7) two members of the house of representatives, appointed by the speaker of the house;

(8) at least one but no more than two members of the senate, appointed by the senate committee on committees;

(9) the Head Start collaboration office director; and

(10) 12 at-large members selected on the basis of their commitment to early childhood well-being and representing a range of perspectives and geographic diversity. One of the at-large members shall be a representative of a local Head Start program and one shall be a member of a school board, to be chosen by the Vermont school boards association.

(b) In the event of a vacancy in one of the at-large member positions on the council, the remaining members shall endeavor to fill the vacancy with an individual representing a perspective or geographic area not currently represented on the council.

(c) Technical assistance to the council shall be provided by staff within the departments of health, of education, and for children and families.

(d) For council meetings held when the general assembly is not in session, the legislative members of the council shall be entitled to per diem compensation and reimbursement of expenses in accordance with section 406 of Title 2. Members of the council who are not state employees or whose participation is not supported through their employment or association may be entitled to compensation and reimbursement for expenses for attending meetings of the council under section 1010 of Title 32 to the extent funds are available.

(e) The council shall function as a public-private partnership with the ability to raise and disburse funds.

(f) The council shall support the establishment of, and maintenance of relationships with, regional councils providing regional capacity to further the council's goals.

§ 4603. POWERS AND DUTIES

The council established by section 4602 of this title shall have the following powers and duties necessary and appropriate to effectuating the purposes of this chapter:

(1) Advise the administration and general assembly on the status and needs of the early care, health, and education system by conducting a review of the status of young children in Vermont and the care, health, and education services and systems that support them.

(2) Monitor overall system performance by regularly tracking and reporting system data on the well-being of young children and the performance of the system of care related to the council's commitments to children and selected indicators.

(3) Develop an early care, health, and education system plan for Vermont to serve as the basis for policy and funding recommendations.

(4) Review and formulate recommendations for amendments or revisions to policies, rules, or regulations that may impede the ability to address state and local priorities and the ability to ensure system effectiveness.

(5) Work with the secretaries of human services and of commerce and community development and the commissioner of education to ensure the coordination of existing budgets and policies that affect the care, health, and education of young children.

(6) Identify and reduce duplication of services and of administrative approval processes and improve coordination across agencies.

(7) Work with the agencies of human services and of commerce and community development, the department of education, and the regional councils to coordinate and integrate the development of an early childhood budget that reflects alignment of funding with priorities identified in the system plan.

(8) Support the regional councils in their efforts to coordinate and implement services in accordance with identified priorities in system and regional plans.

(9) Contract with state agencies and departments to deliver services as agreed upon.

(10) Pursue and accept funding from diverse sources outside of state government to sustain, expand, and enhance the early care, health, and education system according to the early care, health, and education system plan.

(11) Disburse funds raised through fund development activities in accordance with priorities defined in the system plan.

(12) Convene members of the child care community, medical community, education community, and other organizations, as well as state agencies serving young children, to ensure that families receive quality services in the most efficient and cost-effective manner.

(13) Select the key indicators to be tracked in early childhood and identify priority strategies to improve outcomes.

(14) Ensure children from birth to six years of age are included in statistical data systems developed by the department of education and other state agencies and that all such systems are interoperable.

(15) Analyze data to assess progress in achieving outcomes consistent with No. 68 of the Acts of the 2009 Adj. Sess. (2010) and make recommendations for any necessary adjustments.

(16) Report to the governor and the legislative committees of jurisdiction during the first month of each legislative biennium on the council's findings and recommendations, progress toward outcomes consistent with No. 68 of the Acts of the 2009 Adj. Sess. (2010), and recommendations for priorities for the biennium.

§ 4604. LIMITATION OF SCOPE

Nothing in this chapter shall be construed to supersede or usurp the statutory powers or authority of any state agency or department or any school district.

Sec. 2. COMPOSITION OF COUNCIL

The members of the building bright futures council serving as of the effective date of this act shall continue to serve on the council after that date and shall adopt bylaws detailing the council's governance and procedures.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 9-0-2)

(For text see Senate Journal 2/25/10)

Rep. Miller of Shaftsbury, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Human Services**.

(Committee Vote: 11-0-0)

Favorable

S. 173

An act relating to technical corrections to the trust laws

Rep. Koch of Barre Town, for the Committee on **Judiciary**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 10-0-1)

(For text see Senate Journal 1/26/10-2/3/10)

Senate Proposal of Amendment

H. 759

An act relating to executive branch fees

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

First: In Sec. 2, 20 V.S.A. § 2738, in subsection (a), in subdivision (4), by striking out “and”, in subdivision (5), by adding a new ;and and saving the old period for the end of a new subdivision (6) which is added to read:

(6) fees relating to licensing elevator mechanics and inspectors, and issuing permits and certificates of operation under subchapter 2A of chapter 3 of Title 21.

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

Sec. 4. 20 V.S.A. §§ 2883 and 2884 are amended to read:

§ 2883. ~~INSPECTIONS BY INSURANCE COMPANIES~~ BOILER INSPECTIONS

The commissioner has authority to obtain specific information from ~~boiler insurance companies, boiler inspectors~~ on forms ~~furnished by them~~, which shall first be approved by the commissioner. The commissioner may authorize qualified inspectors ~~in the employ of insurance companies~~ to conduct inspections ~~under his or her control and~~ under such rules as the commissioner may prescribe. If a boiler or pressure vessel is insured, the inspection may be conducted by a qualified inspector who is employed, or contractually authorized, by the insurer. If a boiler or pressure vessel is not insured, the inspection may be conducted by any qualified inspector authorized by the commissioner. In case the inspection is made by such an inspector, no fee shall be charged by the division, except a process fee of ~~\$20.00~~ \$30.00 for issuance of an operating certificate. The fee for a person requesting a three-year authorization to conduct inspections shall be \$150.00. A licensed boiler inspector shall carry liability insurance in an amount determined by the department.

§ 2884. QUALIFICATIONS OF INSPECTORS

All boiler inspectors, ~~employed by the state and insurance companies~~, shall have passed the examination required by the National Board of Boiler and Pressure Vessel Inspectors, and hold annual certification from such board.

Third: By inserting an internal caption and a Sec. 9a to read:

* * * Criminal conviction records * * *

Sec. 9a. 20 V.S.A. § 2056c is amended to read:

§ 2056c. DISSEMINATION OF CRIMINAL CONVICTION RECORDS TO THE PUBLIC

* * *

(c) Criminal conviction records shall be disseminated to the public by the center under the following conditions:

* * *

(10) No person entitled to receive a criminal conviction record pursuant to this section shall require an applicant to obtain, submit personally, or pay for a copy of his or her criminal conviction record, except that this subdivision shall not apply to a local governmental entity with respect to criminal conviction record checks for licenses or vendor permits required by the local governmental entity.

Fourth: By inserting an internal caption and a Sec. 9b to read:

* * * Fingerprinting fees * * *

Sec. 9b. 20 V.S.A. § 2062 is amended to read:

§ 2062. FINGERPRINTING FEES

State, county and municipal law enforcement agencies may charge a fee of not more than ~~\$15.00~~ \$25.00 for providing persons with a set of classifiable fingerprints. No fee shall be charged to retake fingerprints determined by the Vermont criminal information center not to be classifiable. Fees collected by the state of Vermont under this section shall be credited to the fingerprint fee special fund established and managed pursuant to ~~32 V.S.A. chapter 7,~~ subchapter 5 of chapter 7 of Title 32, and shall be available to the department of public safety to offset the costs of providing these services.

Fifth: By striking out Sec. 6 and inserting in lieu thereof a new Sec. 6 to read:

Sec. 6. 26 V.S.A. § 905 is amended to read:

§ 905. APPLICATION; EXAMINATIONS AND FEES

* * *

(d)(1) Three-year electrical license fees shall be:

For a masters license (initial and renewal)	\$120.00 <u>\$150.00</u> ;
For a journeyman's license (initial and renewal)	\$ 90.00 <u>\$115.00</u> ;
For a type-S journeyman's license (initial and	

renewal) per field \$ ~~90.00~~ \$115.00;

(2) A fee established under this subsection for a license initially obtained under section 906 of this title shall not be less than the fee charged for the same license by the reciprocal state.

(e) For The fee for a certificate for framing shall be \$ 10.00.

~~(e)~~(f) If a license is allowed to lapse, it may be renewed within one year of its expiration date by the payment of \$25.00 in addition to the renewal fee.

~~(f)~~(g) The fee for replacement of a lost or damaged license shall be \$20.00.

Sixth: In Sec. 9, by adding a subsection (c) to read:

(c) 21 V.S.A. § 157 (elevator safety fund; creation) is repealed.

Seventh: By striking out Sec. 10 and inserting in lieu thereof a new Sec. 10 to read:

Sec. 10. 6 V.S.A. § 324(b) is amended to read:

(b) No person shall distribute in this state a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~\$70.00~~ \$75.00 per product. The registration fees, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. If the secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

Eighth: In Sec. 18, 9 V.S.A. § 2643, by striking out subsection (b) and inserting in lieu thereof a new subsection (b) to read:

(b) The secretary shall, from time to time, test the accuracy and use of laser scanning and other computer assisted check-out systems in stores. The secretary shall compare the programmed computer price with the item price of any consumer commodity offered by a store. The store shall provide access to the computer as is necessary to allow the secretary to conduct the accuracy test.

~~(b)~~ If, upon review, the programmed price of a commodity exceeds the price printed on or the advertised price of the commodity, the store may be subject to license denial, revocation, suspension or the following administrative penalties: ~~\$15.00 per violation identified in more than two percent but less than four percent of the commodities reviewed, rounded to the~~

~~nearest whole number, \$20.00 per violation in the next two percent reviewed, \$50.00 per violation in the next two percent and \$100.00 for each additional violation. In no event, however, shall the total amount of penalty for the review exceed \$1,000.00 allowed by 6 V.S.A. § 15 for overcharge errors identified in two percent or more of the commodities reviewed.~~

~~(c) If a subsequent review within 12 months reveals further violations, the total amount of penalty due may be multiplied by the number of violations discovered.~~

Ninth: By striking out Sec. 20 and inserting in lieu thereof a new Sec. 20 to read:

Sec. 20. 8 V.S.A. § 2506 is amended to read:

§ 2506. APPLICATION FOR LICENSE

* * *

(d) A nonrefundable application fee of \$1,000.00 ~~and~~, a license fee of \$500.00 for the applicant, and a license fee of \$25.00 for each authorized delegate location shall accompany an application for a license under this subchapter. The license fee shall be refunded if the application is denied.

* * *

Tenth: By striking out Sec. 21 and inserting in lieu thereof a new Sec. 21 to read:

Sec. 21. 8 V.S.A. § 2509 is amended to read:

§ 2509. RENEWAL OF LICENSE ~~AND~~, ANNUAL REPORT, AND ANNUAL ASSESSMENT

(a) A licensee under this subchapter shall pay an annual license renewal fee of \$500.00, plus an annual renewal fee of \$25.00 for each authorized delegate location, provided that the total renewal fee for all authorized delegate locations shall not exceed \$3,500.00, no later than December 1 for the next succeeding calendar year.

* * *

(c) On or before April 1 of each year, the licensee shall pay the department an annual assessment equal to \$0.0001 per dollar volume of money services activity performed for or sold or issued to Vermont customers for the most recent year ending December 31, which assessment shall not be less than \$100.00 and shall not be greater than \$15,000.00.

(d) If a licensee does not file an annual report on or before April 1, pay its annual assessment on or before April 1, or pay its renewal fee by December 1,

or within any extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. The licensee's license shall be suspended 10 calendar days after the commissioner sends the notice of suspension. The licensee has 20 days after its license is suspended in which to file an annual report, pay its annual assessment, or pay the renewal fee, plus \$100.00 for each day after suspension that the commissioner does not receive the annual report, the annual assessment, or the renewal fee. The commissioner for good cause may grant an extension of the due date of the annual report or the renewal date.

~~(d)~~(e) The commissioner may require more frequent reports from any licensee for the purpose of determining the adequacy of the licensee's security.

Eleventh: By striking out Sec. 24 and inserting in lieu thereof a new Sec. 24 to read:

Sec. 24. 8 V.S.A. § 2532a is added to read:

§ 2532a. CHANGE OF AUTHORIZED DELEGATES; CHANGE OF LOCATION

A licensee shall notify the commissioner in writing within 30 days of any change in the list of authorized delegates or locations in this state where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. Such notice shall state the name and street address of each authorized delegate or of each location removed or added to the licensee's list. Upon any such change, the licensee shall provide sufficient evidence that it is in compliance with section 2507 of this title. The licensee shall submit with the notice a nonrefundable fee of \$25.00 for each new authorized delegate location and for each change in location. There is no fee to remove authorized delegates or to remove locations.

Twelfth: By inserting an internal caption and Secs. 24a, 24b, 24c, 24d, 24e, 24f, 24g, 24h, and 24i to read:

* * * Simplified licensing process for certain commercial lenders * * *

Sec. 24a. 8 V.S.A. § 2200(1) is amended to read:

(1) "Commercial loan" means any loan or extension of credit that is described in subdivision 46(1), (2), or (4) of Title 9 ~~and that is in excess of \$25,000.00~~. The term does not include a loan or extension of credit ~~for the purpose of farming, as defined in subdivision 6001(22) of Title 10 and does not include a loan or extension of credit for the purpose of financing secured in whole or in part by an owner occupied one- to four-unit dwelling.~~

Sec. 24b. 8 V.S.A. § 2202(d) is added to read:

(d) This section does not apply to a lender making only commercial loans.

Sec. 24c. 8 V.S.A. § 2202a is added to read:

§ 2202a. APPLICATION FOR COMMERCIAL LENDER LICENSE; FEES

(a) Application for a license for a lender making solely commercial loans shall be in writing, under oath, and in the form prescribed by the commissioner, and shall contain the name and address of the residence and the place of business of the applicant and, if the applicant is a partnership or association, of every member thereof, and, if a corporation, of each officer, director, and control person thereof; the county and municipality with street and number, if any, where the business is to be conducted; and such further information as the commissioner may require.

(b) At the time of making application, the applicant shall pay to the commissioner a \$500.00 fee for investigating the application and a \$500.00 initial license fee for a period terminating on the last day of the current calendar year.

(c) In connection with an application for a commercial lender license, the applicant and each officer, director, and control person of the applicant shall furnish to the Nationwide Mortgage Licensing System and Registry (NMLSR) information concerning the applicant's identity and the identity of each of the applicant's officers, directors, and control persons, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation and for any other governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check.

(2) Personal history and experience in a form prescribed by the NMLSR, including the submission of authorization for the NMLSR and the commissioner to obtain information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(3) Any other information required by the NMLSR or the commissioner.

Sec. 24d. 8 V.S.A. § 2203(f) is added to read:

(f) This section does not apply to a lender making only commercial loans.

Sec. 24e. 8 V.S.A. § 2204(d) is added to read:

(d) This section does not apply to a lender making only commercial loans.

Sec. 24f. 8 V.S.A. § 2204c is added to read:

§ 2204c. APPROVAL OF APPLICATION; ISSUANCE OF COMMERCIAL LENDER LICENSE

(a) Upon the filing of the application and payment of the required fees, the commissioner shall issue and deliver a commercial lender license to the applicant upon findings by the commissioner as follows:

(1) That the experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter. If the applicant is a partnership or association, such findings are required with respect to each partner, member, and control person. If the applicant is a corporation, such findings are required with respect to each officer, director, and control person.

(2) That the applicant and each officer, director, and control person of the applicant has never had a lender license, mortgage broker license, mortgage loan originator license, or similar license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation.

(3) That the applicant and each officer, director, and control person of the applicant has not been convicted of or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(A) During the seven-year period preceding the date of the application for licensing, except a conviction for driving under the influence or a similarly titled offense in this state or in any other jurisdiction;

(B) At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or

(C) Provided that any pardon of a conviction shall not be a conviction for purposes of this subsection.

(b) If the commissioner does not find as set forth in subsection (a) of this section, the commissioner shall not issue a license. Within 60 days of filing of the completed application, the commissioner shall notify the applicant of the denial, stating the reason or reasons therefor. If after the allowable period, no request for reconsideration under subsection 2205(a) of this title is received from the applicant, the commissioner shall return to the applicant the sum paid by the applicant as a license fee, retaining the investigation fee to cover the costs of investigating the application.

(c) If the commissioner makes findings as set forth in subsection (a) of this section, he or she shall issue the license within 60 days of filing the completed application. Provided the licensee annually renews the license, the license shall be in full force and effect until surrendered by the licensee or until

revocation, suspension, termination, or refusal to renew by the commissioner.

Sec. 24g. 8 V.S.A. § 2209(a)(6) is added to read:

(6) For the renewal of a lender's license for a lender making only commercial loans, \$500.00.

Sec. 24h. 8 V.S.A. § 2224(b) is amended to read:

(b) Annually, within 90 days of the end of its fiscal year, each licensed lender, mortgage broker, and sales finance company shall file financial statements with the commissioner in a form and substance satisfactory to the commissioner, which financial statements must include a balance sheet and income statement. This subsection does not apply to a lender making only commercial loans.

Sec. 24i. 9 V.S.A. § 46 is amended to read:

§ 46. EXCEPTIONS

Section 43 of this title relating to deposit requirements and section 45 of this title relating to prepayment penalties shall not apply and the parties may contract for a rate of interest in excess of the rate provided in section 41a of this title in the case of:

* * *

(2) obligations incurred by any person, partnership, association or other entity to finance in whole or in part income-producing business or activity, but not including obligations incurred to finance family dwellings of ~~two~~ four units or less when used as a residence by the borrower or to finance real estate which is devoted to agricultural purposes as part of an operating farming unit when used as a residence by the borrower; or

* * *

Thirteenth: By inserting an internal caption and a Sec. 29a to read:

* * * Moose hunting permit * * *

Sec. 29a. 10 V.S.A. § 4254 is amended to read:

§ 4254. FISHING AND HUNTING LICENSES; ELIGIBILITY, DESIGN, DISTRIBUTION, SALE, AND ISSUE

* * *

(i)(1) If the board establishes a moose hunting season, up to five moose permits shall be set aside to be auctioned. The board shall adopt rules necessary for the department to establish, implement, and run the auction process. Proceeds from the auction shall be deposited in the fish and wildlife

fund and used for conservation education programs run by the department. Successful bidders must have a Vermont hunting or combination license in order to purchase a moose permit. Beginning with the 2006 hunting season, the five moose permits set aside for auction shall be in addition to the number of annual moose permits authorized by the board.

* * *

(3) If the board establishes a moose hunting season, there shall be established a program to set aside three moose permits for children with life-threatening illnesses. The department of fish and wildlife shall adopt a procedure to implement the set-aside program for children with life-threatening illnesses.

Fourteenth: In Sec. 30, 3 V.S.A. § 2822(j), in subdivision (2)(B)(i), by striking out the figure “\$210,000.00” and inserting in lieu thereof the figure \$60,000.00

Fifteenth: In Sec. 30, 3 V.S.A. § 2822(j), by adding an ellipsis after subdivision (7)(F)

Sixteenth: In Sec. 30, 3 V.S.A. § 2822(j), by inserting subdivision (26) and amending it to read:

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection (j) and an application fee of:

(A) ~~\$0.07~~ \$0.14 per square foot of proposed impact to Class I or II wetlands;

(B) ~~\$0.05~~ \$0.10 per square foot of proposed impact to Class I or II wetland buffers;

(C) maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use, \$200.00 per application. For purposes of this subdivision, “cropland” means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees or vines and the production of Christmas trees;

(D) minimum fee, \$50.00 per application.

* * *

Seventeenth: In Sec. 30, 3 V.S.A. § 2322(j), by adding subdivisions (29) and (30) to read:

(29) For salvage yards permitted under subchapter 10 of chapter 61 of Title 24:

- | | |
|--|---------------------------------|
| <u>(A) facilities that crush or shred junk motor vehicles.</u> | <u>\$2,000.00 per facility.</u> |
| <u>(B) facilities that accept or dismantle junk motor vehicles.</u> | <u>\$1,000.00 per facility.</u> |
| <u>(C) facilities that manage junk on site excluding junk motor vehicles.</u> | <u>\$350.00 per facility.</u> |
| <u>(D) facilities, the primary activity of which is handling total-loss vehicles from insurance companies.</u> | <u>\$300.00 per facility.</u> |

(30) For beverage redemption centers certified under chapter 53 of Title 10, an annual fee of \$100.00 per certified redemption center.

* * *

Eighteenth: In Sec. 30, 3 V.S.A. § 2822(1), in subdivision (2), by striking the (A) designation, the word “or” and subdivision (B) in its entirety

Nineteenth: By striking out Sec. 31 in its entirety

Twentieth: In Sec. 33, by adding a new subsection (c) to read:

(c) 24 V.S.A. § 2263 (annual salvage yard licensing fee) is repealed.

Twenty-first: In Sec. 35, 32 V.S.A. § 605, in subsection (b), by striking out subdivision (1) and inserting in lieu thereof a new subdivision (1) to read:

(1) A report covering all fees in existence on the prior July 1 within the areas of government identified by the department of finance and management accounting system as “general government,” “labor,” “general education,” “development and community affairs” and “transportation” shall be submitted ~~by October 1, 1996 and every three years thereafter~~ on by the third Tuesday of the legislative session ~~beginning with 2000~~ beginning in 2011 and every three years thereafter.

Twenty second: By striking Sec. 35a in its entirety

Twenty third: By inserting an internal caption and a Sec. 34a to read:

* * * Probate fees * * *

Sec. 34a. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE COURTS

(a) The following entry fees shall be paid to the probate court for the

benefit of the state, except for subdivision (17) of this subsection which shall be for the benefit of the county in which the fee was collected:

* * *

(14) Guardianships for minors	\$35.00 <u>\$85.00</u>
(15) Guardianships for adults	\$50.00 <u>\$100.00</u>
(16) Petitions for change of name	\$75.00 <u>\$125.00</u>

* * *

<u>(23) Petitions for partial decree</u>	<u>\$100.00</u>
<u>(24) Petitions for license to sell real estate</u>	<u>\$50.00</u>

* * *

And by renumbering the remaining sections to be numerically correct.

(For text see House Journal 2/10/10 - 2/11/10)

H. 784

An act relating to the state's transportation program

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

Sec. 1. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2011 transportation program appended to the agency of transportation's proposed fiscal year 2011 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) the term "agency" means the agency of transportation;

(2) the term "secretary" means the secretary of transportation;

(3) the table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading;

(4) the term "ARRA funds" refers to federal funds allocated to the state by the American Recovery and Reinvestment Act of 2009;

(5) the term "TIB funds" refers to monies deposited in the transportation

infrastructure bond fund in accordance with 19 V.S.A. § 11f;

(6) the term “debt service reserve” refers to funds required to be segregated under the terms of a trust agreement entered into to secure transportation infrastructure bonds issued pursuant to subchapter 4 of chapter 13 of Title 32;

(7) the column heading “TIB” in the agency’s proposed fiscal year 2011 transportation program refers to TIB funds and to the proceeds of transportation infrastructure bonds issued pursuant to Sec. 13 of this act; and

(8) the term “TIB bond” refers to the proceeds of transportation infrastructure bonds issued pursuant to Sec. 19 of this act.

Sec. 2. RAIL

The following modifications are made to the rail program:

(1) A new project is added for Albany, New York – Bennington, Vermont – Rutland, Vermont bi-state intercity rail corridor track 3 planning with the following spending authority:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	1,000,000	1,000,000
Total	0	1,000,000	1,000,000
<u>Source of funds</u>			
State	0	250,000	250,000
Federal	0	500,000	500,000
Local	0	250,000	250,000
Total	0	1,000,000	1,000,000

The local share indicated represents the state of New York participation in the project.

(2) A new project is added for Amtrak Vermonter – New England Central Railroad track 1 improvements with the following spending authority:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	0	26,231,846	26,231,846
Total	0	26,231,846	26,231,846
<u>Sources of funds</u>			
State	0	0	0
Federal	0	0	0
ARRA	0	26,231,846	26,231,846
Local	0	0	0
Total	0	26,231,846	26,231,846

Sec. 3. DEPARTMENT OF MOTOR VEHICLES

Spending authority for the department of motor vehicles is amended to read:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	15,786,441	15,786,441	0
Operating Expenses	8,377,553	8,303,553	-74,000
Grants	136,476	136,476	0
Total	24,300,470	24,226,470	-74,000
<u>Sources of funds</u>			
State	23,096,730	23,022,730	-74,000
Federal	1,203,740	1,203,740	0
Total	24,300,470	24,226,470	-74,000

* * * Program Development * * *

Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

The following modifications are made to the program development — roadway program:

(1) Authorized spending on the Waterbury FEGC F 013-4(13) project is amended to read:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	100,000	0
Construction	0	350,000	350,000
Total	100,000	450,000	350,000
<u>Sources of funds</u>			
State	3,000	3,000	0
TIB fund	0	10,500	10,500
Federal	95,000	427,500	332,500
Local	2,000	9,000	7,000
Total	100,000	450,000	350,000

(2) Authorized spending on the Cabot-Danville FEGC F 028-3(26)C/1 project is amended to read:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	100,000	0
Construction	500,000	447,500	-52,500
Total	600,000	547,500	-52,500
<u>Sources of funds</u>			
State	5,000	5,000	0
TIB fund	25,000	14,500	-10,500
Federal	570,000	528,000	-42,000

Total	600,000	547,500	-52,500
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(3) The following project has received a federal earmark and is added to program development – roadway program – roadway projects candidate list as follows:

Rutland STP 3000() - Rutland Center Street Marketplace Improvements - \$973,834.00; 100 percent federal funds.

Sec. 5. PROGRAM DEVELOPMENT – INTERSTATE BRIDGE

The following modification is made to the program development – interstate bridge program:

Authorized spending on the Littleton, NH – Waterford, VT IM 093-1() project (rehabilitation of I-93 bridges over CT River connecting VT and NH) is added to read:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	0	500,000	500,000
Total	0	500,000	500,000
<u>Sources of funds</u>			
State	0	0	0
TIB fund	0	50,000	50,000
Federal	0	450,000	450,000
Total	0	500,000	500,000

Sec. 6. PROGRAM DEVELOPMENT – BIKE AND PEDESTRIAN FACILITIES

The following project has received a federal earmark and is added to program development – bike and pedestrian facilities – bike and pedestrian facilities candidates list:

Thetford STP 0180() – Thetford Village Pedestrian Improvements – \$438,225.00; 100 percent federal funds.

Sec. 7. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified as follows:

(1) Among eligible projects selected in the secretary’s discretion, the secretary shall replace project spending authority in the total amount of \$1,949,321.00 in transportation funds with the same amount in TIB funds.

(2) Among eligible projects selected in the secretary’s discretion, the secretary shall replace project spending authority in the total amount of \$130,000.00 in transportation funds with the same amount in federal funds via the use of federal toll credits.

* * * Aviation * * *

Sec. 8. AVIATION

The following modifications are made to the aviation program:

(1) Spending authority for the South Burlington – Burlington International AIP Program project is amended to read:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
ROW	4,050,000	4,050,000	0
Construction	10,880,000	10,850,000	-30,000
Total	14,930,000	14,900,000	-30,000
<u>Sources of funds</u>			
State	218,200	447,000	228,800
Federal	14,183,500	14,155,000	-28,500
Local	528,300	298,000	-230,300
Total	14,930,000	14,900,000	-30,000

(2) Spending authority for the Berlin CAP HQ project is amended to read as follows. The agency is authorized to proceed with the Berlin CAP HQ project if a federal earmark can be secured for the project.

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	0	-100,000
Construction	900,000	0	-900,000
Total	1,000,000	0	-1,000,000
<u>Sources of funds</u>			
State	100,000	0	-100,000
Federal	900,000	0	-900,000
Total	1,000,000	0	-1,000,000

(3) Spending authority for Statewide – Facility Improvements is amended to read:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	322,000	263,600	-58,400
Total	322,000	263,600	-58,400
<u>Sources of funds</u>			
State	322,000	263,600	-58,400
Total	322,000	263,600	-58,400

* * * Vermont Local Roads * * *

Sec. 9. TOWN HIGHWAY – VERMONT LOCAL ROADS

Spending authority for the town highway – Vermont local roads program is amended to read:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	375,000	390,000	15,000
Total	375,000	390,000	15,000
<u>Sources of funds</u>			
State	235,000	235,000	0
Federal	140,000	155,000	15,000
Total	375,000	390,000	15,000
* * * Public Transit * * *			

Sec. 10. PUBLIC TRANSIT

The following modifications are made to the public transit program:

(1) Spending authority for the public transit program is increased by \$30,000.00 in transportation funds. The agency shall allocate \$30,000.00 in transportation funds for a grant to the Vermont Kidney Association to support the transportation costs of dialysis patients.

(2) From the funds allocated to the public transit general capital program, \$100,000.00 in federal funds shall be held by the agency in reserve to cover shortfalls in the funding of the elders and persons with disabilities program (E&D) that occur as a result of unanticipated demand for non-Medicaid transportation services. Transit agencies that have grant agreements with the agency for the provision of E&D services shall be eligible to receive disbursements from the reserve. Disbursements from the reserve funds shall be limited to transit agencies that have administered appropriately constrained E&D programs.

* * * Personal Services Spending * * *

Sec. 11. AGENCY PERSONAL SERVICES SPENDING

Total spending authority for agency personal services is reduced by up to \$686,400.00 in transportation funds to reflect fiscal year 2011 personnel pension benefit savings. The agency shall apportion the reduction among its programs and activities accordingly.

* * * ARRA Maintenance of Effort – Appropriation Transfers * * *

Sec. 12. AMERICAN RECOVERY AND REINVESTMENT ACT; TRANSPORTATION MAINTENANCE OF EFFORT

(a) The general assembly finds that the state should maximize the federal money available for transportation. It is the intent of this section to assist the state in complying with the maintenance of effort requirements in section 1201 of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, which requires the state to certify and maintain planned levels of expenditure of state funds for the types of projects funded by ARRA during the

period February 17, 2009 through September 30, 2010. Failure to maintain the certified level of effort will prohibit the state from receiving additional federal funds through the August 2011 redistribution of federal aid highway and safety programs.

(b) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2010 and 2011 transportation programs, the secretary, with the approval of the secretary of administration and subject to the provisions of subsection (c) of this section, may transfer transportation fund or federal fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, to redirect funding to activities eligible for inclusion in, and for the specific purpose of complying with, the maintenance of effort requirements of section 1201 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. Any appropriations so transferred shall be expended on projects or activities within the fiscal year 2010 or 2011 transportation programs.

(c) If a contemplated transfer of an appropriation would, by itself, have the effect of significantly delaying the planned work schedule of a project which formed the basis of the project's funding in the fiscal year of the contemplated transfer, the secretary shall submit the proposed transfer for approval by the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, by the joint transportation oversight committee. In all other cases, the secretary may execute the transfer, giving prompt notice thereof to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee.

(d) This section shall expire on September 30, 2010.

* * * FY 2011 Transportation Infrastructure Bonds * * *

Sec. 13. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

(a) The state treasurer is authorized to issue transportation infrastructure bonds pursuant to 32 V.S.A. § 972 for the purpose of funding the appropriations of Sec. 14 of this act and associated costs of the transportation infrastructure bonds as defined in 32 V.S.A. § 972(b) in the amount of \$13,500,000.00 in fiscal year 2011.

(b) In the event the state treasurer determines that:

(1) the creation and funding of a debt service reserve is advisable to support the successful issuance of transportation infrastructure bonds, or the

cost of preparing, issuing, and marketing the bonds is likely to exceed \$202,500.00; and

(2) the balance of the TIB fund as of the end of fiscal year 2010 is insufficient to fund a debt service reserve and to pay associated issuance costs of the bonds, the treasurer is authorized to increase the issue of transportation infrastructure bonds authorized in subsection (a) of this section up to a total amount of \$16,500,000.00.

Sec. 14. TRANSPORTATION INFRASTRUCTURE BONDS;
APPROPRIATION

The amount of up to \$13,500,000.00 from the issuance of transportation infrastructure bonds is appropriated in fiscal year 2011 to the agency of transportation program development appropriation (8100001100) for use on eligible projects as defined in 32 V.S.A. § 972(c) in the state's fiscal year 2011 transportation program.

* * * Transportation Infrastructure Bond Reserves * * *

Sec. 15. FISCAL YEAR END 2010 TRANSPORTATION FUND SURPLUS

Subject to the funding of the transportation fund stabilization reserve in accordance with 32 V.S.A. § 308a and notwithstanding 32 V.S.A. § 308c (transportation fund surplus reserve), any surplus in the transportation fund as of the end of fiscal year 2010 up to a maximum amount of \$3,000,000.00 shall be transferred to the TIB fund.

Sec. 16. AUTHORITY TO TRANSFER FISCAL YEAR 2010
APPROPRIATIONS TO PAY FISCAL YEAR 2011 BOND OBLIGATIONS

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2010 transportation program, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may transfer transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, or TIB fund appropriations, to the TIB fund for the specific purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds authorized by this act, to pay the issuance costs of such bonds, or to pay the principal and interest due on such bonds in fiscal year 2011.

(b) The secretary's authority under subsection (a) of this section to transfer appropriations is limited to appropriations, the transfer of which, by itself, will not have the effect of significantly delaying the planned fiscal year 2010 work schedule of a project which formed the basis of the project's funding in fiscal

year 2010.

(c) When any appropriation is transferred pursuant to this section, the secretary shall report the transfer to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee.

Sec. 17. CHANGE TO CONSENSUS REVENUE FORECAST

In the event the July 2010 consensus revenue forecast of fiscal year 2011 transportation fund revenue is increased above the January 2010 forecast, the increase up to \$3,000,000.00 shall be transferred to the TIB fund to provide the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds authorized by this act, to pay the issuance costs of such bonds, or to pay the principal and interest due on such bonds in fiscal year 2011 or fiscal year 2012.

Sec. 18. AUTHORITY TO TRANSFER FISCAL YEAR 2011 APPROPRIATIONS TO PAY FISCAL YEAR 2012 BOND OBLIGATIONS

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2011 transportation program, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may transfer transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, or TIB fund appropriations, to the TIB fund for the specific purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds authorized by this act or to pay the principal and interest due on such bonds in fiscal year 2012.

(b) The secretary's authority under subsection (a) of this section to transfer appropriations is limited to appropriations, the transfer of which, by itself, in the context of any spending authorized for the project in the fiscal year 2012 transportation program, will not have the effect of significantly delaying the planned work schedule of the project which formed the basis of the project's funding in fiscal years 2011 and 2012.

(c) The agency shall expedite the procedures required to determine the eligibility and certification of federal toll credits with respect to potentially qualifying capital expenditures made by Vermont entities through the end of fiscal year 2010 which, subject to compliance with federal maintenance of effort requirements, would be available for use by the state in fiscal year 2012. The fiscal year 2012 transportation program shall reserve up to \$3,000,000.00 of such potentially available federal toll credits and federal formula funds and

authorize the secretary to utilize the federal toll credits and federal formula funds to accomplish the objectives of this section.

(d) When any appropriation is transferred pursuant to this section, the secretary shall report the transfer to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee.

* * * FY 2011 Contingent Transportation Bonding Authority * * *

Sec. 19. FY 2011 CONTINGENT BONDING AUTHORITY; WESTERN CORRIDOR GRANT APPLICATION

(a) Notwithstanding 32 V.S.A. § 980 (authority to issue transportation infrastructure bonds), the state treasurer is authorized to issue transportation infrastructure bonds for fiscal year 2011 of up to \$15,000,000.00 more than the amounts authorized in the preceding sections of this act, provided that the agency describes the proposed use of the funding and receives approval from the general assembly, or if the general assembly is not in session, the joint transportation oversight committee, of such issue and the proposed use of the funds.

(b) The agency is authorized to apply for a Federal Railroad Administration High-Speed Intercity Passenger Rail (HSIPR) grant to cover, in whole or in part, the cost of upgrading the state's western rail corridor for intercity passenger rail service. In applying for a grant, the agency is authorized to identify the bonds authorized by this section as a possible source of nonfederal match dollars which could be included in and would thereby strengthen the application.

(c) In the event transportation infrastructure bonds are issued pursuant to subsection (a) of this section for purposes other than the funding of the potential Federal Railroad Administration HSIPR grant referenced in subsection (b) of this section, the proposed spending of bond proceeds approved by the general assembly or by the joint transportation oversight committee is authorized, and the amount of the approved spending is appropriated to the programs as identified by the agency.

(d) In the event the state is awarded a Federal Railroad Administration HSIPR grant for infrastructure improvements to upgrade the state's western rail corridor for intercity passenger rail service as referenced in subsection (b) of this section:

(1) a project for the improvements covered by the grant is added to the state's transportation program;

(2) authority to spend the federal grant funds is added as follows and the specified amount of federal funds is appropriated to the rail program; and

(3) to the extent that other state funds are not available and transportation infrastructure bonds are issued pursuant to subsection (a) of this section to fund the project, authority to spend the bond proceeds on the project is added as follows and the specified amount of transportation infrastructure bond proceeds is appropriated to the rail program:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	7,500,000	7,500,000
Total	0	7,500,000	7,500,000
<u>Sources of funds</u>			
TIB bond	0	1,500,000	1,500,000
Federal	0	6,000,000	6,000,000
Total	0	7,500,000	7,500,000

* * * Central Garage * * *

Sec. 20. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2011, the amount of \$1,120,000.00 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

Sec. 21. REPEAL

19 V.S.A § 13(g) (report on central garage activity, equipment rental, and fleet condition) is repealed.

* * * Notification of Emergency and Safety Projects; Reporting of Expenditures and Carry Forwards * * *

Sec. 22. 19 V.S.A. § 10g is amended to read:

§ 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM; ADVANCEMENTS, CANCELLATIONS, AND DELAYS

(a) The agency of transportation shall annually present to the general assembly a multiyear transportation program covering the same number of years as the statewide transportation improvement plan (STIP), consisting of the recommended budget for all agency activities for the ensuing fiscal year and projected spending levels for all agency activities for the following fiscal years. The program shall include a description and year-by-year breakdown of recommended and projected funding of all projects proposed to be funded within the time period of the STIP and, in addition, a description of all projects which are not recommended for funding in the first fiscal year of the proposed program but which are ~~projected to be ready~~ scheduled for construction ~~at that~~

~~time (shelf projects)~~ during the time period covered by the STIP. The program shall be consistent with the planning process established by No. 200 of the Acts of the 1987 Adj. Sess. (1988), as codified in ~~3 V.S.A. chapter 67 of Title 3 and 24 V.S.A. chapter 117 of Title 24~~, the statements of policy set forth in sections 10b-10f of this title, and the long-range systems plan, corridor studies, and project priorities developed through the capital planning process under section 10i of this title.

* * *

(e)(1) The agency's annual transportation program shall include a separate report summarizing with respect to the most recently ended fiscal year:

(A) all expenditures of funds by source; and

(B) all unexpended appropriations of transportation funds and TIB funds that have been carried forward from the previous fiscal year to the ensuing fiscal year.

(2) The summary shall identify expenditures and carry forwards for each program category included in the proposed annual transportation program as adopted for the closed fiscal year in question and such other information as the agency deems appropriate.

* * *

(g) The agency's annual transportation program shall include a separate report referencing this section describing all proposed projects in the program which would be new to the state transportation program if adopted.

(h) Should capital projects in the transportation program be delayed because of unanticipated problems with permitting, right-of-way acquisition, construction, local concern, or availability of federal or state funds, the secretary is authorized to advance projects in the approved transportation program, ~~giving priority to shelf projects~~. The secretary is further authorized to undertake projects to resolve emergency or safety issues. Upon authorizing a project to resolve an emergency or safety issue, the secretary shall give prompt notice of the decision and action taken to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee. Should an approved project in the current transportation program require additional funding to maintain the approved schedule, the agency is authorized to allocate the necessary resources. However, the secretary shall not delay or suspend work on approved projects to reallocate funding for other projects except when other funding options are not available. In such case, the secretary shall notify the members of the joint

transportation oversight committee and the joint fiscal office. With respect to projects in the approved transportation program, the secretary shall notify, in the district affected, the regional planning commission, the municipality, legislators, ~~and~~ members of the senate and house committees on transportation, and the joint fiscal office of any significant change in design, change in construction cost estimates requiring referral to the transportation board under ~~19 V.S.A. § section~~ 10h of this title, or any change which likely will affect the fiscal year in which the project is planned to go to construction. No project shall be cancelled without the approval of the general assembly.

* * * Joint Transportation Oversight Committee; Meetings * * *

Sec. 23. 19 V.S.A. § 12b is amended to read:

§ 12b. JOINT TRANSPORTATION OVERSIGHT COMMITTEE

(a) There is created a joint transportation oversight committee composed of the chairs of the house and senate committees on appropriations, the house and senate committees on transportation, the house committee on ways and means, and the senate committee on finance. The committee shall be chaired alternately by the chairs of the house and senate committees on transportation, and the ~~two-year~~ two-year term shall run concurrently with the biennial session of the legislature. The chair of the senate committee on transportation shall chair the committee during the 2009–2010 legislative session.

(b) The committee shall meet during adjournment for official duties. Meetings shall be convened by the chair and when practicable shall be coordinated with the regular meetings of the joint fiscal committee. Members shall be entitled to compensation and reimbursement pursuant to 2 V.S.A. § 406. The committee shall have the assistance of the staff of the ~~legislative council and the joint fiscal office~~ agency of transportation.

(c) The committee shall provide legislative overview of the transportation fund revenues collection and the operation and administration of the agency of transportation construction, paving and rehabilitation programs. The secretary of transportation shall report to the oversight committee upon request.

(d)(1) In coordination with the regular meetings of the joint fiscal committee, ~~the joint transportation oversight committee shall meet~~ in mid-July, mid-September, and mid-November. ~~At these meetings,~~ the secretary shall prepare a report on the status of the state's transportation finances and transportation programs, including. If a meeting of the committee is not convened on the scheduled dates of the joint fiscal committee meetings, the secretary in advance shall transmit the report electronically to the joint fiscal office for distribution to committee members. The report shall include a report on contract bid awards versus project estimates and a detailed report on all

known or projected cost overruns, project savings and funding availability from delayed projects; and the agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds with respect to:

(A) all paving projects other than statewide maintenance programs; and

(B) all projects in the roadway, state bridge, interstate bridge, or town bridge programs with authorized spending in the fiscal year of \$500,000.00 or more with a cost overrun equal to 20 percent or more of the authorized spending or generating project savings or delayed project available funding equal to 20 percent or more of the authorized spending.

(2) In addition, ~~at~~ with respect to the July meeting of the joint ~~transportation oversight~~ fiscal committee, the ~~secretarys shall~~ secretary's report ~~to the committee on~~ shall discuss the agency's plans to adjust spending to any changes in the consensus forecast for transportation fund revenues.

* * * Vermont Bridge Maintenance Program * * *

Sec. 24. REPEAL

The following are repealed:

(1) 19 V.S.A. § 40 (Vermont bridge maintenance program).

(2) Sec. 56 of No. 80 of the Acts of 2005 (allocation of vehicle inspection change revenue).

Sec. 25. 23 V.S.A. § 1230 is amended to read:

§ 1230. CHARGE

For each inspection certificate issued by the department of motor vehicles, the commissioner shall be paid \$4.00 provided that state and municipal inspection stations that inspect only state or municipally owned and registered vehicles shall not be required to pay a fee. All vehicle inspection certificate charge revenue shall be allocated to the transportation fund with one-half reserved for bridge maintenance activities.

Sec. 26. CARRY-FORWARD AUTHORITY – BRIDGE MAINTENANCE

Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, transportation fund appropriations remaining unexpended on June 30, 2010, in the transportation – bridge maintenance appropriation (8100005400) shall be carried forward, shall be designated for expenditure in the transportation – program development appropriation (8100001100), and shall be used for the purpose of bridge maintenance.

* * * Transportation Projects; Construction Claims * * *

Sec. 27. 19 V.S.A. § 5(d) is amended to read:

(d) The board shall:

* * *

(4) provide appellate review, when requested in writing, regarding legal disputes in the execution of contracts awarded by the agency or by municipalities cooperating with the agency to advance projects in the state's transportation program;

* * *

* * * Transportation Contracts; Procurement Standards * * *

Sec. 28. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

The agency shall, except where otherwise specifically provided by law:

(1) Award contracts on terms as it deems to be in the best interest of the state, for the construction, repair, or maintenance of transportation related facilities; for the use of any machinery or equipment either with or without operators or drivers; for the operation, repair, maintenance, or storage of any state-owned machinery or equipment; for professional engineering services, inspection of work or materials, diving services, mapping services, photographic services, including aerial photography or surveys, and any other services, with or without equipment, in connection with the planning, construction, and maintenance of transportation facilities. Persons rendering these services shall not be within the classified service, and the services shall not entitle the provider to rights under any state retirement system. Notwithstanding ~~3 V.S.A. chapter 13 of Title 3,~~ the agency may contract for services also provided by persons in the classified service, either at present or at some time in the past. ~~Any contract of more than \$50,000.00 shall be advertised and awarded to the lowest qualified bidder unless determined otherwise by the board.~~ The solicitation and award of contracts by the agency shall follow procurement standards approved by the secretary of administration as well as applicable federal laws and regulations.

* * *

* * * Cancellation of Locally Managed Projects * * *

Sec. 29. 19 V.S.A. § 5(d) is amended to read:

(d) The board shall:

* * *

(12) maintain the accounting functions for the duties imposed by ~~9 V.S.A.~~ chapter 108 of Title 9 separately from the accounting functions relating to its other duties;

(13) hear and determine disputes involving a determination of the agency under section 309c of this title that the municipality is responsible for repayment of federal funds required by the Federal Highway Administration.

Sec. 30. 19 V.S.A. § 309c is added to read:

§ 309c. CANCELLATION OF LOCALLY MANAGED PROJECTS

(a) Notwithstanding section 309a of this title, a municipality or other local sponsor responsible for a locally managed project through a grant agreement with the agency shall be responsible for the repayment, in whole or in part, of federal funds required by the Federal Highway Administration or other federal agency because of cancellation of the project by the municipality or other local sponsor due to circumstances or events wholly or partly within the municipality's or other local sponsor's control. Prior to any such determination that cancellation of a project was due to circumstances or events wholly or partly within a municipality's or other local sponsor's control, the agency shall consult with the municipality or other local sponsor to attempt to reach an agreement to determine the scope of the municipality's or other local sponsor's repayment obligation.

(b) Within 15 days of an agency determination under subsection (a) of this section, a municipality may petition the board for a hearing to determine if cancellation of the project was due to circumstances or events in whole or in part outside the municipality's control. The board shall hold a hearing on the petition within 30 days of its receipt and shall issue an appropriate order within 30 days thereafter. If the board determines that cancellation of the project was due in whole or in part to circumstances or events outside the municipality's control, it shall order that the municipality's repayment obligation be reduced proportionally, in whole or in part. The municipality shall have no obligation to make a repayment under this section until the board issues its order.

* * * Filing of Transportation Deeds and Leases * * *

Sec. 31. 3 V.S.A. § 103 is amended to read:

§ 103. DOCUMENTS REQUIRED TO BE FILED

(a) All deeds, contracts of sale, leases, and other documents or copies of same conveying land or an interest therein to the state, except for ~~highway rights-of-way~~ transportation rights-of-way, leases, and conveyances, shall be filed in the office of the secretary of state.

(b) All deeds, contracts of sale, leases, and other documents conveying land or an interest in land from the state as grantor, except for transportation rights-of-way, leases, and conveyances, shall be made out in duplicate by the authorized agent of the state. The original shall be delivered to the grantee and the duplicate copy, so marked, shall be filed in the office of the secretary of state.

(c) The secretary of state shall also record the state treasurer's bonds and other documents required to be recorded in ~~his~~ the secretary of state's office and give copies of the same upon tender of ~~his~~ the secretary of state's legal fees.

* * * Transportation Board; Town Reports * * *

Sec. 32. 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

The clerk of a municipality shall supply annually each library in such municipality with two copies of the municipal report, upon its publication. The clerk shall also mail to the state library two copies thereof, and one copy each to the secretary of state, commissioner of taxes, ~~transportation board~~, state board of health, commissioner for children and families, director of the office of Vermont health access, auditor of accounts, and board of education. Officers making these reports shall supply the clerk of the municipality with the printed copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

* * *

* * * Signs and Other Traffic Control Devices * * *

Sec. 33. 23 V.S.A. § 1025 is amended to read:

§ 1025. STANDARDS

(a) The United States Department of Transportation Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) for streets and highways as amended shall be the standards for all traffic control signs, signals, and markings within the state. The latest revision of the MUTCD shall be adopted upon its effective date except in the case of projects beyond a preliminary state of design that are anticipated to be constructed within two years of the otherwise applicable effective date; such projects may be constructed according to the MUTCD standards applicable at the design stage. Existing signs, signals, and markings shall be valid until such time as they are replaced or reconstructed. When new traffic control devices are erected or placed or existing traffic control devices are replaced or repaired the equipment, design, method of installation, placement or repair shall conform

with ~~such standards~~ the MUTCD.

(b) ~~These~~ The standards of the MUTCD shall apply for both state and local authorities as to traffic control devices under their respective jurisdiction.

* * *

* * * School Zone Warning Signs * * *

Sec. 34. 19 V.S.A. § 921 is amended to read:

§ 921. SCHOOL ZONES

(a) Municipalities shall erect or cause to be erected on all public highways near a school warning signs ~~bearing the legend "school zone."~~ The signs shall conform ~~conforming~~ to the standards of the manual on uniform traffic control devices as provided in 23 V.S.A. § 1025.

(b) For the purposes of this section and 23 V.S.A. § 1025, the term "school" shall include school district-operated prekindergarten program facilities owned or leased by a school district.

* * * State Airports * * *

Sec. 35. WILLIAM H. MORSE STATE AIRPORT (BENNINGTON); AUTHORIZATION TO ACCEPT DONATION OF HANGAR

(a) The secretary of transportation, as agent for the state of Vermont, is authorized to accept donation of an existing hangar building at the William H. Morse State Airport in the town of Bennington from Business Air, Inc., d/b/a Air Now. Notwithstanding 19 V.S.A. § 26a, the secretary is further authorized to enter into an amendment of Air Now's existing lease to allow Air Now to use the hangar building rent free, subject to Air Now's continuing to do business at the airport and maintaining the building at no expense to the state. In the event that Air Now ceases to do business at the airport or requests to assign its leasehold to some other person, the requirement to pay fair market value rent pursuant to 19 V.S.A. § 26a shall resume.

(b) Upon accepting conveyance of the hangar building under subsection (a) of this section, the secretary of transportation shall notify the secretary of administration so the hangar building can be added to the inventory of state-owned buildings maintained for purposes of 32 V.S.A. §§ 3701-3707.

* * * State-owned Railroad Property * * *

Sec. 36. 5 V.S.A. § 3406(b) is amended to read:

(b) The secretary shall have authority, with the approval of the governor, to ~~sell to any person or legal entity part or all of any parcel of state-owned railroad property or rights therein, provided that the terms of the sale are~~

~~approved by the legislature or, in the event that the general assembly is not in session, by the joint fiscal committee~~ subject to the following conditions:

(1) the property is located more than 33 feet from the centerline of main line track (or former main line track), and the secretary determines that the property no longer is needed for railroad operating purposes or for railbanking under section 3408 of this title; and

(2)(A) if the appraised value of the property is \$100,000.00 or above, with the prior approval of the general assembly of the sale and its terms, or, in the event that the general assembly is not in session, with the prior approval of the joint transportation oversight committee; or

(B) if the appraised value of the property is below \$100,000.00, without further approval.

Sec. 37. 5 V.S.A. § 3408 is amended to read:

§ 3408. RAILBANKING; NOTIFICATION

(a) If the secretary finds that the continued operation of any state-owned railroad property is not economically feasible under present conditions, he or she may place the line in railbanked status after giving advance notice of such planned railbanking to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee. The agency, on behalf of the state, shall continue to hold the right-of-way of a railbanked line for reactivation of railroad service or for other public purposes not inconsistent with future reactivation of railroad service. Such railbanking shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of the rights-of-way for railroad purposes.

* * *

Sec. 38. APPROVAL OF TRANSACTIONS REGARDING STATE-OWNED RAILROAD PROPERTY

(a) The secretary of transportation, as agent for the state of Vermont, is authorized to sell to New England Central Railroad, Inc., for fair market value, a segment of the so-called Fonda Branch of the former Central Vermont Railway, Inc. in the town of Swanton, beginning at approximate mile post 137.86 and extending northerly a distance of approximately 1.26 miles to approximate mile post 139.12, which is the northerly abutment of the railroad bridge over the Missisquoi River.

(b) The secretary, as agent for the state of Vermont, is authorized to sell to Shelburne Limestone Corporation, for fair market value, a segment of the so-called Fonda Branch of the former Central Vermont Railway, Inc. in the

town of Swanton, beginning at approximate mile post 139.12, which is the northerly abutment of the railroad bridge over the Missisquoi River, and extending northerly a distance of approximately 0.58 miles to approximate mile post 139.70, which is the southwesterly line of U.S. Route 7.

(c) In aid of the descriptions contained in this section, reference may be had to valuation plans V8/138-140 for the former Central Vermont Railway Company (dated June 30, 1917); the October 17, 1973 quit-claim deed of Central Vermont Railway, Inc. to the St. Johnsbury & Lamoille County Railroad, which is recorded at book 81, page 278 of the Swanton land records; and the December 7, 1973 quit-claim deed of the St. Johnsbury & Lamoille County Railroad to the Vermont Transportation Authority, which is recorded at book 81, page 368 of the Swanton land records.

* * * Authorized Enforcement and Emergency Vehicles * * *

Sec. 39. AUTHORITY OF LAW ENFORCEMENT AND RESCUE PERSONNEL TO ENGAGE IN NEGLIGENT OR RECKLESS CONDUCT IN EMERGENCY AND NON-EMERGENCY SITUATIONS; STUDY

The commissioner of public safety, a designee of the Professional Firefighters of Vermont, the Vermont Bar Association, the Vermont Fire Chiefs Association, the Vermont Troopers Association and the Vermont Association for Justice shall study the need to revisit the standard of care required under § 1015(c) of Title 23, and whether the provisions of § 1015(c) of Title 23 should be extended to on-duty officers in non-emergency situations. The Committee shall report its findings and recommendations to the Senate and House committees on Judiciary on or before April 1, 2011.

Sec. 40. [DELETED]

* * * Out-of-State First Responder Vehicles * * *

Sec. 41. 23 V.S.A. § 1251 is amended to read:

§ 1251. SIRENS AND COLORED SIGNAL LAMPS; OUT OF STATE EMERGENCY AND RESCUE VEHICLES

(a) No motor vehicle shall be operated upon a highway of this state equipped with a siren or signal lamp colored other than amber unless a permit authorizing such equipment, issued by the commissioner of motor vehicles, is carried in the vehicle. The commissioner may adopt additional rules as may be required to govern the acquisition of permits and the use pertaining to sirens and colored signal lamps.

(b) Notwithstanding the provisions of subsection (a) of this section, when responding to emergencies, law enforcement vehicles, ambulances, fire vehicles, or vehicles owned or leased by, or provided to, volunteer firefighters

or rescue squad members, which are registered or licensed by another state or province, may use sirens and signal lamps in Vermont, and a permit shall not be required for such use, as long as the vehicle is properly permitted in its home state or province.

* * * Establishing Speed Limits * * *

Sec. 42. 23 V.S.A. § 1003(a) is amended to read:

(a) When the traffic committee constituted under 19 V.S.A. § 1(24) determines, on the basis of an engineering and traffic investigation that shall take into account, if applicable, safe speeds within school zones (or safe speeds within 200 feet of school district-operated prekindergarten program facilities owned or leased by a school district) when children are traveling to or from such schools or facilities, that a maximum speed limit established by this chapter is greater or less than is reasonable or safe under conditions found to exist at any place or upon any part of a state highway, ~~except~~ including the Dwight D. Eisenhower national system of interstate and defense highways, it may determine and declare a reasonable and safe limit which is effective when appropriate signs stating the limit are erected. This limit may be declared to be effective at all times or at times indicated upon the signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, or based on other factors, bearing on safe speeds which are effective when posted upon appropriate fixed or alterable signs.

Sec. 43. 23 V.S.A. § 1004(a) is amended to read:

(a) The traffic committee has exclusive authority to make and publish, and from time to time may alter, amend, or repeal, rules pertaining to vehicular, pedestrian, and animal traffic, ~~speed limits,~~ and the public safety on the Dwight D. Eisenhower national system of interstate and defense highways and other limited access and controlled access highways within this state. The rules and any amendments or revisions may be made by the committee only in accordance with chapter 25 of Title 3. The rules shall be consistent with accepted motor vehicle codes or standards, shall be consistent with law, and shall not be unreasonable or discriminatory in respect to persons engaged in like, similar, or competitive activities. The rules are applicable only to the extent that they are not in conflict with regulations or orders issued by any agency of the United States having jurisdiction and shall be drawn with due consideration for the desirability of uniformity of law of the several states of the United States.

* * * Special Occasions * * *

Sec. 44. 23 V.S.A. § 1010 is amended to read:

§ 1010. SPECIAL OCCASIONS; TOWN HIGHWAY MAINTENANCE

(a) When it appears that traffic will be congested by reason of a public occasion or when a town highway is being reconstructed or maintained or where utilities are being installed, relocated, or maintained, the legislative body of a municipality may make special regulations as to the speed of motor vehicles, may exclude motor vehicles from ~~certain public~~ town highways and may make such traffic rules and regulations as the public good requires. However, signs indicating the special regulations must be conspicuously posted in and near all affected areas, giving as much notice as possible to the public so that alternative routes of travel could be considered.

* * *

* * * Replacement of Gasoline Dispensers * * *

Sec. 45. 10 V.S.A. § 583 is amended to read:

§ 583. REPEAL OF STAGE II VAPOR RECOVERY REQUIREMENTS

(a) Effective January 1, 2013, all rules of the secretary pertaining to stage II vapor recovery controls at gasoline dispensing facilities are repealed. The secretary may not issue further rules requiring such controls. For purposes of this section, “stage II vapor recovery” means a system for gasoline vapor recovery of emissions from the fueling of motor vehicles as described in 42 U.S.C. § 7511a(b)(3).

(b) Prior to January 1, 2013, stage II vapor recovery rules shall not apply to:

* * *

(4) Any existing gasoline dispensing facility that, after May 1, 2009, replaces all of its existing gasoline dispensers with ~~new~~ gasoline dispensers that support triple data encryption standard (TDES) usage or replaces one or more of its gasoline dispensers pursuant to a plan to achieve full TDES compliance, upon verification and approval by the secretary.

* * *

* * * Relinquishment of State Highway Segments to Municipalities * * *

Sec. 46. RELINQUISHMENT OF FORMER VERMONT ROUTE 109 TO TOWN OF BELVIDERE

(a) Under the authority of 19 V.S.A. § 15(2), approval is granted for the secretary to enter into an agreement with the town of Belvidere to relinquish to the town’s jurisdiction a segment of former VT Route 109 beginning at a point in the northerly right-of-way boundary of the present VT Route 109, said point

also being the northerly right-of-way boundary of the former VT Route 109, being 35 feet distant northerly radially from station 73+00 of the established centerline of Highway Project Belvidere S 0282(1); thence 155 feet, more or less, southeasterly, crossing the former VT Route 109, to a point in the northerly right-of-way boundary of the present VT Route 109, said point also being in the southerly right-of-way boundary of the former VT Route 109, being 45 feet distant northerly radially from station 74+55 of the centerline; thence northeasterly, easterly, and southeasterly along the southerly right-of-way boundary of the former VT Route 109 to a point in the northerly right-of-way boundary of the present VT Route 109, being 70 feet distant northerly at right angle from station 82+15 of the centerline; thence 79 feet, more or less, northeasterly crossing the former VT Route 109 to a point in the northerly right-of-way boundary of present VT Route 109, being 92 feet distant northerly at right angle from station 82+90 of the centerline; thence northwesterly, westerly, and southwesterly along the northerly right-of-way boundary of the former VT Route 109 to the point and place of beginning.

(b) The relinquishment shall include a three-rod (49.5 feet) right-of-way and slope rights within the area and is subject to the rights of utility companies under chapter 71 of Title 30 and other statutes of similar effect.

Sec. 47. RELINQUISHMENT OF STATE HIGHWAY SEGMENTS TO THE TOWN OF NORWICH

(a) Pursuant to 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the town of Norwich to relinquish to the town's jurisdiction a segment of the state highway known as VT Route 10A in the town of Norwich, beginning at the low-water mark of the Connecticut River at a point in the center of VT Route 10A and continuing 2,756 feet (approximately 0.52 miles) westerly to mile marker 1.218 where VT Route 10A intersects with U.S. Route 5 (this point also is station 78+00 on the U.S. Route 5 centerline of Highway Project Hartford-Norwich I 91-2(5)).

(b) Pursuant to 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the town of Norwich to relinquish to the town's jurisdiction a segment of the state highway known as U.S. Route 5 (Church Street) in the town of Norwich, beginning at its intersection with VT Route 10A approximately at mile marker 1.218. This point is also station 78+00 on the U.S. Route 5 centerline of Highway Project Hartford Norwich I 91-2(5). The relinquishment shall continue 6,496 feet (approximately 1.230 miles) northerly and easterly along the center of U.S. Route 5 to its intersection with the Norwich State Highway approximately at U.S. Route 5 mile marker 2.448.

(c) Pursuant to 19 V.S.A. § 15(2), approval is granted for the secretary of

transportation to enter into an agreement with the town of Norwich to relinquish to the town's jurisdiction a segment of the state highway known as Norwich State Highway, beginning at the intersection of the Norwich State Highway with VT Route 10A. The relinquishment shall continue 6,071 feet (approximately 1.15 miles) northerly along the center of the Norwich State Highway to its intersection with U.S. Route 5 approximately at Norwich State Highway mile marker 1.150.

(d) Control of the highways but not ownership of the lands or easements within the highway right-of-way shall be relinquished to the town of Norwich. The town of Norwich shall not sell or abandon any portion of the relinquishment areas or allow any encroachments within the relinquishment areas without written permission of the agency of transportation.

* * * Town of Bennington; Adjustments to State Highway System * * *

Sec. 48. TOWN OF BENNINGTON; ADJUSTMENTS TO STATE HIGHWAY SYSTEM

(a) Under the authority of 19 V.S.A. § 15(2), the general assembly authorizes the secretary to enter into an agreement with the town of Bennington to relinquish to the town's jurisdiction approximately 1.07 miles of U.S. Route 7 (South Street) between mile marker 1.088 (near Carpenter Hill Road [TH #48]) and mile marker 2.156 (near the entrance to the Park Lawn Cemetery) to become a class 1 town highway.

(b) Under the authority of 19 V.S.A. § 15(2), the general assembly authorizes the secretary to enter into an agreement with the town of Bennington to accept as part of the state highway system approximately 1,300 feet of VT Route 9 (Main Street [TH #2]) between mile marker 5.655, near the location of a crosswalk to be constructed under the transportation project Bennington NH 019-1(51), and mile marker 5.901, which is the existing jurisdictional boundary between the state highway and the class 1 town highway. The agreement shall provide for the town of Bennington to be responsible for maintenance of sidewalks within the subject area.

* * * Short-Range Public Transit Plan * * *

Sec. 49. REPEAL

The following are repealed:

(1) 24 V.S.A. § 5088(7) (definition of "short-range public transit plan").

(2) 24 V.S.A. § 5091(f) (requirement that grantees shall be eligible for funding only if a short-range public transit plan has been completed).

* * * Modal Councils * * *

Sec. 50. VERMONT RAIL, AVIATION, AND PUBLIC TRANSIT ADVISORY COUNCILS

The agency of transportation shall examine the current functions of the Vermont Rail Advisory Council, the Vermont Aviation Advisory Council, and the Vermont Public Transit Advisory Council. The agency shall consider the structure, composition, and format of each council and shall report back to the senate and house committees on transportation with any recommendations for modifications to improve the efficiency and effectiveness of each council by January 15, 2011.

* * * Scenery Preservation Council * * *

Sec. 51. 10 V.S.A. § 425 is amended to read:

§ 425. SCENERY PRESERVATION COUNCIL

(a) The scenery preservation council shall:

(1) upon request, advise and consult with organizations, municipal planning commissions or legislative bodies, or regional planning commissions concerning byway program grants and in the designation of municipal scenic roads or byways;

(2) recommend for designation state scenic roads or byways after holding a public meeting to determine local support for designation; and

(3) encourage and assist in fostering public awareness, understanding, and participation in the objectives and functions of scenery preservation and in stimulating public participation and interest.

~~(b) There is created within the state planning office a scenery preservation council to advise and assist the state planning director in the performance of his duties with respect to this chapter. The scenery preservation council shall consist of ~~ten~~ seven members including: the secretary of the agency of natural resources, or his or her designee; the secretary of the agency of transportation and the director of the state planning office or their designees. The governor shall appoint his or her designee; and five members appointed by the governor. The speaker of the house shall appoint one member of the house as member and the committee on committees of the senate shall appoint one senator as member. The terms of the members appointed by the governor shall be for three years, except that he or she shall appoint the first members so that the terms of the members end in one year, two years, and three years. The terms of the members appointed by the speaker of the house and the committee on committees of the senate shall end on January 15 in every odd numbered year and their successors shall be appointed at that time. The governor shall designate an appointed member to serve as chairman at the governor's~~

pleasure. Except as provided in this section, no state employee or member of any state commission ~~nor~~ or any federal employee or member of any federal commission shall be eligible for membership on the scenery preservation council. Members of the council who are not full-time state employees, ~~including members of the general assembly when the general assembly is not in session,~~ shall be entitled to a per diem of \$30.00 as provided in 32 V.S.A. § 1010(b) and their actual necessary expenses. Only the secretary of transportation or his or her designee may call meetings of the council, and meetings shall be called only as necessary for the council to perform the functions set forth in subsection (a) of this section.

~~(b) The scenery preservation council shall:~~

~~(1) upon request, advise and consult with municipal planning commissions or legislative bodies and regional planning commissions in the designation of municipal scenic roads;~~

~~(2) recommend for designation state scenic roads, after consultation with regional planning commissions, pursuant to the provisions of chapter 25 of Title 19;~~

~~(3) encourage and assist in fostering public awareness, understanding and participation in the objectives and functions of scenery preservation and in stimulating public participation and interest;~~

~~(4) report biennially to the governor and the general assembly upon the effectiveness of this chapter and make continuing recommendations regarding scenic corridors, scenic areas and scenic sites. The reports shall indicate the status of all state and town designated scenic roads;~~

~~(5) prepare and recommend to the transportation board prior to January 1, 1978 aesthetic criteria to carry out the purposes of this chapter.~~

* * *

* * * Highway Condemnation Orders * * *

Sec. 52. 19 V.S.A. § 512 is amended to read:

§ 512. ORDER FIXING COMPENSATION; INVERSE CONDEMNATION; RELOCATION ASSISTANCE

(a) Within ~~45~~ 30 days after the compensation hearing, the ~~transportation~~ board shall by its order fix the compensation to be paid to each person from whom land or rights are taken, ~~and~~. Within 30 days of the board's order, the agency of ~~transportation~~ shall file and record the order in the office of the clerk of the town where the land is situated, ~~and shall~~ deliver to each person ~~or persons~~ a copy of that portion of the order directly affecting the person ~~or~~

~~persons, and shall pay or tender the award to each person entitled to which. A person to whom a compensation award is paid or tendered under this subsection may be accepted, retained and disposed~~ accept, retain, and dispose of the award to his or her own use without prejudice to the person's right of appeal, as provided in section 513 of this title. Upon the payment or tender of the award as above provided, the agency of transportation may proceed with the work for which the land is taken.

* * *

* * * Traveler Information Services * * *

Sec. 53. INTERSTATE 91 TRAVELER INFORMATION SERVICES FACILITY

(a) Pursuant to Sec. 109(b) of No. 50 of the Acts of 2009, the commissioner of buildings and general services (BGS) is authorized to negotiate and contract with businesses interested in providing travel information services near Exit 7 of Interstate 91 for the purpose of establishing a privately operated travel information center near this exit.

(b) The agency of transportation shall work with BGS and the Federal Highway Administration to implement a signage strategy to clearly direct travelers to businesses providing travel information services at any travel information center established pursuant to subsection (a) of this section.

Sec. 54. INFORMATION CENTERS; CROSS-BORDER OPPORTUNITIES

The commissioner of buildings and general services may evaluate opportunities to reach agreement with neighboring states and provinces concerning advertising at information centers or the joint operation of information centers. The commissioner shall report findings and recommendations related to any evaluation conducted pursuant to this section to the senate and house committees on transportation by January 15, 2011.

* * * Lake Champlain Bridge Facilities * * *

Sec. 55. LAKE CHAMPLAIN BRIDGE FACILITIES

(a) The secretary of transportation and the commissioner of fish and wildlife shall work together in consultation with the Division of Historic Preservation to develop plans regarding the repair and expansion of existing fishing access facilities at the Lake Champlain bridge at Crown Point.

(b) The secretary of transportation and the commissioner of buildings and general services shall work together in consultation with the Division of Historic Preservation in seeking federal funds for renovations to Chimney Point State Historic Site facilities and the repair and expansion of existing

fishing access facilities in connection with construction of the Lake Champlain bridge at Crown Point.

* * * Official Business Directional Sign Fees * * *

Sec. 56. 10 V.S.A. § 501 is amended to read:

§ 501. FEES

Subject to the provisions of subsection 486(c) of this title, an applicant for an official business directional sign or an information plaza plaque shall pay to the travel information council an initial license fee and an annual renewal fee as established by this section.

* * *

(2) Annual renewal fees shall be as follows:

(A) for full and half-sized official business directional signs, ~~\$125.00~~ \$100.00 per sign;

(B) information plaza plaques, \$25.00 per plaque.

* * * Rest Area Advisory Committee * * *

Sec. 57. REPEAL

19 V.S.A. § 12c (rest area advisory committee) is repealed.

* * * Low-Bed Trailer Permits * * *

Sec. 58. 23 V.S.A. § 1402(e) is amended to read:

(e) ~~Pilot project allowing annual permits for low bed trailers.~~

(1) The commissioner may issue an annual permit to allow the transportation of a so-called "low-bed" trailer. A "low-bed" trailer is defined as a trailer manufactured for the primary purpose of carrying heavy equipment on a flat-surfaced deck, which deck is at a height equal to or lower than the top of the rear axle group.

(2) A blanket permit may be obtained for an annual fee of \$275.00 per unit, provided the total vehicle length does not exceed 75 feet, does not exceed a loaded width of 12'6", does not exceed a total weight of 108,000 lbs., and has a height not exceeding 14 feet.

(3) Warning signs and flags shall be required if the vehicle exceeds 75 feet in length, or exceeds 8'6" in width.

(4) ~~This subsection shall expire on June 30, 2010. No later than January 15, 2010, the department of motor vehicles, after consultation with the agency of transportation, Vermont League of Cities and Towns, and Vermont~~

~~Truck and Bus Association, shall report to the house and senate committees on transportation on the results of this two year pilot project. The report shall include recommendations on extending this provision on low bed trailers, as well as other recommendations relating to longer vehicle lengths. [Repealed.]~~

Sec. 58a. LEGISLATIVE INTENT

It is the intent of the general assembly to require the commissioner of motor vehicles to conduct an in-depth study of the most effective and efficient mechanisms for promoting the use of ignition interlock devices or other devices that prevent impaired driving and implementing legislation related to such devices in Vermont. The commissioner also is directed to formulate recommended legislation by January 15, 2011, to advance the general assembly's goal to pass ignition interlock legislation.

Sec. 58b. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) In 2008, nearly 12,000 people were killed in crashes attributed to alcohol-impaired driving, which accounted for 32 percent of all traffic fatalities in the United States. Impaired driving is a significant public safety concern.

(2) As a tool to combat impaired driving, 47 states have laws concerning the use of ignition interlock devices. Ignition interlock devices are installed in motor vehicles to prevent them from being started unless the operator blows into the device and the device detects that the operator's alcohol concentration is below a preset limit. Devices may be programmed to require periodic retesting while the car is running. About 146,000 ignition interlock devices currently are in use in the United States.

(3) Vermont is one of just three states that have not enacted ignition interlock legislation.

(4) Research shows that ignition interlock devices reduce subsequent arrest rates among both first-time and repeat DUI offenders by 50 to 90 percent while such devices are installed.

(5) Research estimating the costs versus the benefits of ignition interlock programs suggests a \$3.00 benefit for each \$1.00 in program costs for first-time DUI offenders and a \$4.00 to \$7.00 benefit for each \$1.00 in program costs for other DUI offenders.

Sec. 58c. IGNITION INTERLOCK DEVICE STUDY

(a) The commissioner of motor vehicles, in consultation with the commissioner of corrections, the court administrator, the department of public safety, state's attorneys and sheriffs, the defender general, the attorney general,

the Vermont bar association, and any other organizations or entities the commissioner deems appropriate, shall study and formulate recommended legislation authorizing use of ignition interlock devices or other devices that prevent impaired driving in Vermont. In carrying out this directive, the commissioner shall:

(1) Review current laws, rules and regulations, and practices regarding use of ignition interlock devices in other states and attempt to ascertain the factors that contribute to the varying success of states in promoting use of ignition interlock devices.

(2) Consider whether legislation should:

(A) require installation of ignition interlock devices by some or all DUI offenders as a condition of license reinstatement;

(B) for some or all DUI offenders, authorize operation of a motor vehicle during a suspension period under specified conditions if an ignition interlock device is installed;

(C) require, or authorize upon request, some or all DUI offenders to install ignition interlock devices in exchange for a reduced period of license suspension;

(D) authorize or require judges to order installation of ignition interlock devices as a condition of probation for some or all DUI offenders;

(E) authorize or require judges to provide incentives (such as reduced fines) to some or all DUI offenders to encourage installation of such devices;

(F) require devices to be installed for a period in excess of usual suspension periods for some or all offenders;

(G) supplement, or operate as an alternative to, the state's abstinence program for persons whose license has been suspended for life;

(H) apply to all impaired driving offenders (i.e., include those whose violations involve operating under the influence of drugs) or only to those whose offense involved operating under the influence of intoxicating liquor;

(I) limit eligibility to certain classes of DUI offenders (i.e., those whose offense did not result in death of another); or

(J) authorize or require installation of ignition interlock devices under any other circumstances.

(3) Consider how any recommended use of ignition interlock devices should be coordinated with the use of electronic monitoring equipment such as global position monitoring equipment, automated voice recognition telephone

equipment, and transdermal alcohol monitoring equipment.

(4) Study the costs of ignition interlock devices, including installation, monthly lease charges, periodic recalibration, and data downloads and the relative merits of having such costs borne entirely by DUI offenders or partially borne by the state.

(5) Study whether conditions or restrictions (such as hours of operation or limitation to travel to or from work, school, or a treatment program) should be imposed on some or all DUI offenders operating subject to an ignition interlock device requirement.

(6) Study the administrative tasks that must be performed to implement and carry out ignition interlock legislation; the costs associated with these tasks; which agency or agencies are best suited to perform them; and what additional authority or resources an agency or agencies would need to perform them.

(7) Consider appropriate penalties for DUI offenders required to operate vehicles equipped with ignition interlock devices who tamper with or otherwise circumvent such devices, or who operate a vehicle not equipped with such a device, or whose attempt to operate a vehicle is prevented through the functioning of such device, and consider the due process to which DUI offenders cited for such activities shall be entitled.

(8) Consider appropriate penalties for third parties who tamper with or otherwise circumvent ignition interlock devices, or who knowingly provide vehicles not equipped with such devices for DUI offenders required to operate vehicles equipped with such devices, and consider the due process to which persons cited for such activities shall be entitled.

(9) Consider the degree to which the state should monitor, utilize, and impose sanctions based on data obtained from ignition interlock devices.

(10) Consider and study any other issues deemed relevant to ignition interlock device policy and legislation.

(b) The commissioner shall report his or her findings and recommended legislation to the senate and house committees on transportation, the senate and house committees on judiciary, and the joint corrections oversight committee no later than January 15, 2011.

* * * Effective Dates * * *

Sec. 59. EFFECTIVE DATES

(a) This section and the following sections of this act shall take effect on passage:

- (1) Sec. 12 (ARRA maintenance of effort – appropriation transfers).
 - (2) Sec. 13 (FY11 transportation infrastructure bonds).
 - (3) Sec. 15 (end FY10 transportation fund surplus).
 - (4) Sec. 16 (authority to transfer FY10 appropriations).
 - (5) Sec. 42 (speed limits).
 - (6) Sec. 43 (traffic committee rulemaking).
 - (7) Sec. 45 (replacement of gasoline dispensers). Notwithstanding 1 V.S.A. § 214, Sec. 45 shall apply retroactively to gasoline dispensers installed at an existing gasoline dispensing facility after May 1, 2009.
 - (8) Sec. 58 (low-bed trailer permits).
 - (9) Secs. 58a–58c (study and recommendation of ignition interlock device legislation).
- (b) All other sections of this act not specifically enumerated in subsection (a) of this section shall take effect on July 1, 2010.

(For text see House Journal 3/25/10 - 3/26/10)

S. 264

An act relating to stop and hauling charges

The Senate concurs in the House proposal of amendment thereto as follows:

By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. EFFECTIVE DATE

This act shall take effect upon passage, except that Sec. 2 (amendment to 6 V.S.A. § 2676, mandating that the cost of hauling shall be paid by the buyer) shall take effect when New York requires, by legislative or administrative enactment of statewide applicability and enforcement, that dairy hauling costs shall be paid by the purchaser of the cows' milk rather than by the producer of the cows' milk.

(For House Proposal of Amendment see House Journal 4/9/10 Page 819)

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
Favorable with Amendment
S. 97

An act relating to a Vermont state employees' cost-savings incentive program

Rep. Evans of Essex, for the Committee on Government Operations, 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. 3 V.S.A. § 266 is added to read:

§ 266. VERMONT STATE AND JUDICIARY EMPLOYEES'
COST-SAVINGS INCENTIVE PROGRAM

(a) For the purposes of this section:

(1) “State employee” means any classified, nonmanagement, state employee in the executive or judicial branch.

(2) “Suggestion” means a proposal by a state employee that has been submitted to an agency in which the employee is employed that may result in financial savings for that agency.

(b) There is established the Vermont state and judiciary employees' cost-savings incentive program. The program shall provide financial incentives to state and judiciary employees who make suggestions that are adopted and result in financial savings for any agency, department, board, bureau, commission, or other administrative unit of the state, or for the judiciary department.

(c) To be eligible for an award under this program, a state or judiciary employee or group of employees shall submit a suggestion to reduce expenditures on a form created by the department of human resources designated for this purpose. An employee shall have received at least a satisfactory rating in his or her last state performance evaluation to be eligible for any award. An employee who is otherwise eligible for an award under this section shall not receive the award until he or she has satisfied any and all state tax obligations.

(d) Within 60 days of the receipt of a suggestion, the agency, department, board, bureau, commission, or other administrative unit of the state, or the judiciary department receiving a suggestion shall determine whether:

(1) the suggestion is feasible and desirable;

(2) the suggestion is an idea that is not already under active study or has not been under continual review by the state;

(3) the suggestion is beyond the reasonable expectations of job performance, as informed by the employee's job specifications; and

(4) implementation of the suggestion will not negatively impact the quality of services presently provided by the state.

(e) An employee shall be entitled to an award only if his or her suggestion meets each of the criteria set forth in subsection (d) of this section and the suggestion is implemented.

(f) Any agency, department, board, bureau, commission, or other administrative unit of the state, or the judiciary department that receives a suggestion shall present its assessment of the criteria set forth in subsection (d) of this section on the form designated for this purpose and shall state whether it intends to implement the suggestion. A copy of this form shall be sent to the employee or employees making the suggestion, the department of human resources, and the department of finance and management if the employee making the suggestion is an executive branch employee and to the court administrator if the employee making the suggestion is a judiciary department employee.

(g) If the agency, department, board, bureau, commission, or other administrative unit of the state, or judiciary department that receives a suggestion rejects the suggestion, the employee may submit a copy of the form and the assessment to the secretary of administration, if the employee is an executive branch employee. The secretary may affirm or overrule the decision of the agency, department, board, bureau, commission, or other administrative unit of the state, and his or her decision shall be final. If the employee is a judiciary department employee, the employee shall submit the form and assessment to the court administrator, who may affirm or overrule the decision of the judiciary department. The decision of the court administrator is final.

(h) If each of the criteria set forth in subsections (d) and (e) of this section is met, the agency, department, board, bureau, commission, or other administrative unit of the state, or the judiciary department shall implement the suggestion. The employee or group of employees making the suggestion shall then be entitled to a total monetary award equal to 25 percent of the savings realized as a direct result of the suggestion in the first year of its implementation, but the maximum total monetary award shall not exceed \$20,000.00 under any circumstances. If the suggestion is simultaneously made by more than one employee, the award shall be divided equally among the employees who submitted the suggestion. The sum awarded shall be

reportable as wages and subject to applicable state and federal taxes, as appropriate. The award shall be computed on the actual savings for a 12-month period, with the period to run from the time that the suggestion is fully implemented. An award made pursuant to this section shall be paid out of funds appropriated to the agency, department, board, bureau, commission, or other administrative unit of the state, or the judiciary department, that realizes the cost savings, and shall be paid to the employee within one year and 30 days of full implementation of the suggestion. An award shall not be included when calculating an employee's average final compensation for determining the employee's retirement allowance.

(i) If an employee who is eligible for an award under this section terminates state service prior to full implementation of his or her suggestion, the employee shall be entitled to receive an award equal to the savings calculated at the date of termination of service.

(j) If an employee believes that the agency, department, board, bureau, commission, or other administrative unit of the state, or the judiciary department has erroneously calculated or underestimated the savings realized by the suggestion, the employee may submit an objection to the amount awarded in writing, within 30 days of the award, to the secretary of administration or the court administrator, as appropriate. The secretary of administration or the court administrator, with the guidance of the commissioner of finance and management, shall review the amount awarded, and may increase the amount of an award or affirm the award. The decision of the secretary of administration or the court administrator shall be final.

(k) In the event an employee's suggestion is denied on the basis of the criteria set forth in subdivision (d)(1) or (4) of this section, and is subsequently implemented within three years of the date the employee made the suggestion, the employee shall receive a monetary award in accordance with subsection (g) of this section.

(l) The secretary of administration and the court administrator shall file a report with the governor, the state auditor, and the general assembly for each fiscal year, beginning on January 1, 2012, summarizing the suggestions implemented and the savings realized. The secretary shall also identify the suggestions that were rejected and the rationale for these rejections. A copy of this report shall be provided to the director of the Vermont state employees' association.

(m) The joint legislative government accountability committee and the state auditor shall review the secretary of administration's and court administrator's reports on the program with the director of the Vermont state employees' association, or his or her designee, at least once during each fiscal

year.

Sec. 2. REPEAL

Sec. 1 (3 V.S.A. § 266) of this act shall be repealed on July 1, 2014.

(Committee vote: 10-0-1)

(For text see Senate Journal 5/01/09)

Rep. Crawford of Burke, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(Committee Vote: 11-0-0)

S. 224

An act relating to the establishment of a paint stewardship program

Rep. Canfield of Fair Haven, for the Committee on Natural Resources and Energy, 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. 10 V.S.A. chapter 159, subchapter 4 is added to read:

Subchapter 4. Paint Stewardship Program

§ 6671. POLICY

The general assembly finds and declares that it is in the best interest of Vermont to have an environmentally sound, cost-effective paint stewardship program that will undertake responsibility for the development and implementation of strategies to reduce the generation of postconsumer paint, promote the reuse of postconsumer paint, and collect, transport, and process postconsumer paint for end-of-life management, including reuse, recycling, energy recovery, and disposal. The paint stewardship program will follow the waste management hierarchy for managing and reducing leftover paint in the order as follows: reduce consumer generation of leftover paint, reuse, recycle, provide for energy recovery, and dispose. The paint stewardship program will provide more opportunities for consumers to properly manage their leftover paint; provide fiscal relief for local government in managing postconsumer paint; keep paint out of the waste stream; and conserve natural resources.

§ 6672. DEFINITIONS

As used in this subchapter:

(1) “Architectural paint” means a coating sold in a container of five gallons or less for interior or exterior application to buildings or structures.

“Architectural paint” does not mean adhesives, spackling paste or compound, or coatings for industrial application, application on equipment, application on transportation infrastructure, or specialty applications.

(2) “Distributor” means a company that has a contractual relationship with one or more producers to market and sell architectural paint to retailers in Vermont.

(3) “Environmentally sound management practices” means policies to be implemented by a producer or a stewardship organization to ensure compliance with all applicable laws and also addressing such issues as adequate record keeping, tracking and documenting the fate of materials within the state and beyond, and adequate environmental liability coverage for professional services and for the operations of the contractors working on behalf of the producer organization.

(4) “Energy recovery” means recovery in which all or a part of the solid waste materials are processed in order to use the heat content or other forms of energy of or from the material.

(5) “Paint stewardship assessment” means the amount added to the purchase price of architectural paint sold in Vermont necessary to cover the cost of collecting, transporting, and processing the postconsumer paint managed through the statewide program.

(6) “Postconsumer paint” means architectural paint not used and no longer wanted by a purchaser.

(7) “Producer” means a manufacturer of architectural paint who sells, offers for sale, or distributes that paint in Vermont under the producer’s own name or brand.

(8) “Recycling” means any process by which discarded products, components, and by-products are transformed into new usable or marketable materials in a manner in which the original products may lose their identity but does not include energy recovery or energy generation by means of combusting discarded products, components, and by-products with or without other waste products.

(9) “Retailer” means any person that offers architectural paint for sale at retail in Vermont.

(10) “Reuse” means the return of a product into the economic stream for use in the same kind of application as originally intended, without a change in the product’s identity.

(11) “Secretary” means the secretary of natural resources.

(12) “Sell” or “sale” means any transfer of title for consideration, including remote sales conducted through sales outlets, catalogues, or the Internet or any other similar electronic means.

(13) “Stewardship organization” means a corporation, nonprofit organization, or other legal entity created by a producer or group of producers to implement the paint stewardship program required under this subchapter.

§ 6673. PAINT STEWARDSHIP PROGRAM

(a) A producer or a stewardship organization representing producers shall submit a plan for the establishment of a paint stewardship program to the secretary for approval by July 1, 2011. The plan shall address the following:

(1) Describe how the program proposed under the plan will collect, transport, recycle, and process postconsumer paint for end-of-life management, including recycling, energy recovery, and disposal, using environmentally sound management practices.

(2) Describe the program and how it will provide for convenient and available statewide collection of postconsumer architectural paint in urban and rural areas of the state. The producer or stewardship organization shall utilize the existing recycling infrastructure when selecting collection points for postconsumer architectural paint where cost effective.

(3) Provide for at least one permanent collection site in each county that is open to the public at least five days a week.

(4) Provide the facility name, location, and hours of operation of facilities accepting paint for recycling under the program.

(5) Establish goals to reduce the generation of postconsumer paint, to promote the reuse of postconsumer paint, and for the proper end-of-life management of postconsumer paint, as practical based on current household hazardous waste program information. The goals may be revised by the manufacturer or stewardship organization based on the information collected for the annual report.

(6) Describe how postconsumer paint will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy of source reduction, reuse, recycling, energy recovery, and disposal.

(7) Describe education and outreach efforts to promote the source reduction and recycling of architectural paint for each of the following: consumers, contractors, and retailers.

(b) Beginning no later than July 1, 2012, or three months after approval of

the paint stewardship program plan under subsection (a) of this section, whichever occurs first, a producer of architectural paint sold at retail or a stewardship organization of which a producer is a member shall implement the approved paint stewardship program plan.

(c) A plan submitted under subsection (a) of this section shall include a funding mechanism under which each architectural paint producer remits to a stewardship organization payment of a paint stewardship assessment for each container of architectural paint it sells in this state. The paint stewardship assessment shall be added to the cost of all architectural paint sold to Vermont retailers and distributors, and each Vermont retailer or distributor shall add the paint stewardship assessment to the purchase price of all architectural paint sold in this state. To ensure that the funding mechanism is equitable and sustainable, a uniform paint stewardship assessment shall be established for all architectural paint sold. The paint stewardship assessment shall be approved by the secretary and shall be sufficient to recover, but not exceed, the costs of the paint stewardship program.

(d) A producer or a stewardship organization of which a producer is a member shall promote a paint stewardship program and provide consumers with educational and informational materials describing collection opportunities for postconsumer paint statewide and promotion of waste prevention, reuse, and recycling. The educational and informational program shall make consumers aware that the funding for the operation of the paint stewardship program has been added to the purchase price of all architectural paint sold in the state.

(e) A plan approved under this section shall provide for collection of postconsumer architectural paint at no cost to the person from whom the architectural paint is collected.

(f) When a plan or amendment to an approved plan is submitted under this section, the secretary shall make the proposed plan or amendment available for public review and comment for at least 15 days.

§ 6674. RETAILER RESPONSIBILITY

(a) A producer or retailer may not sell or offer for sale architectural paint to any person in Vermont unless the producer of a paint brand or a stewardship program of which the producer is a member is implementing an approved paint stewardship program plan as required by section 6673 of this title. A retailer complies with the requirements of this section if, on the date the architectural paint was ordered from the producer or its agent, the producer of the paint brand is listed on the agency of natural resources website as a producer implementing an approved paint stewardship program plan.

(b) At the time of sale to a consumer, a producer, a stewardship organization, or a retailer selling or offering architectural paint for sale shall provide the consumer with information regarding available end-of-life management options for architectural paint collected through the paint stewardship program or a brand of paint being sold under the program.

(c) No retailer of architectural paint shall be required by a producer or stewardship organization to serve as a postconsumer paint collection facility unless the retailer expressly agrees to participation under the plan submitted by the producer or stewardship organization under section 6673 of this title.

§ 6675. AGENCY RESPONSIBILITY

(a) The secretary shall review and approve plans, and amendments to plans, describing a producer's or stewardship organization's paint management program. Approvals under this subsection shall be valid for not more than five years. In approving a plan, in addition to finding all elements required by subsection 6673(a) of this title are adequately addressed, the secretary shall determine that the implementation of the plan will result in reasonably convenient services to consumers, and that reasonable efforts have been taken to control the cost of the program.

(b) A plan may be amended by a producer, a stewardship organization, or the secretary.

(c) The secretary shall review and approve stewardship fees assessed by a producer pursuant to subsection 6673(c) of this title. Approvals under this subsection shall be valid for not more than one year. In approving a stewardship fee, the secretary shall determine that the fee is reasonable and the fee does not exceed the costs of implementing an approved plan.

(d) Facilities solely collecting paint for the paint stewardship program that would not otherwise be subject to solid waste certification requirements shall not be required to obtain a solid waste certification. Persons solely transporting paint for the paint stewardship program that would not otherwise be subject to solid waste hauler permitting requirements shall not be required to obtain a solid waste hauler's permit.

§ 6676. ANTICOMPETITIVE CONDUCT

A producer or an organization of producers that manages end-of-life management options, including collection, transport, recycling, and processing, of postconsumer paint as required by this subchapter may engage in anticompetitive conduct to the extent necessary to implement the plan approved by the secretary and is immune from liability for the conduct under state laws relating to antitrust, restraint of trade, unfair trade practices, and

other regulation of trade or commerce.

§ 6677. PRODUCER REPORTING REQUIREMENTS

No later than July 1, 2013, and annually thereafter, a producer or a stewardship program of which the producer is a member shall submit to the secretary a report describing the paint stewardship program that the producer or stewardship program is implementing as required by section 6673 of this title. At a minimum, the report shall include:

(1) a description of the methods the producer or stewardship program used to reduce, reuse, collect, transport, recycle, and process postconsumer paint statewide in Vermont;

(2) the volume and type of postconsumer paint collected by the producer or stewardship program in all regions of Vermont;

(3) the volume of postconsumer paint collected by the producer or stewardship program in Vermont by method of disposition, including reuse, recycling, energy recovery, and disposal;

(4) the total volume of architectural paint sold in this state during the preceding calendar year under the stewardship program;

(5) an independent financial audit of the paint stewardship program implemented by the producer or the stewardship program; and

(6) samples of the educational materials that the producer or stewardship program provided to consumers of architectural paint.

§ 6678. CONFIDENTIAL BUSINESS INFORMATION

Data reported to the secretary by a producer or stewardship organization under this subchapter shall be deemed to be confidential business information that is exempt from public disclosure, provided that the agency may use and disclose such information in summary or aggregated form that does not directly or indirectly identify individual producers, distributors, or retailers. The agency may require, as a part of the report submitted under section 6677 of this title that the manufacturer or stewardship organization provide a report that does not contain confidential business information and is available for public inspection and review.

§ 6679. RULEMAKING; PROCEDURE

The secretary may adopt rules or procedures to implement the requirements of this subchapter.

Sec. 2. 3 V.S.A. § 2822(j)(29) is added to read:

(29) For review of plans required by 10 V.S.A. § 6673: \$15,000.00.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 10-0-1)

(For text see Senate Journal 3/24/2010 Page 401)

S. 278

An act relating to the department of banking, insurance, securities, and health care administration

Rep. Bissonette of Winooski, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended as follows:

First: By adding Sec. 1a to read as follows:

Sec. 1a. 8 V.S.A. § 2201(c) is amended to read:

(c) A person licensed pursuant to subdivision (a)(1) of this section may engage in mortgage brokerage and sales finance if such person informs the commissioner in advance that he or she intends to engage in sales finance and mortgage brokerage. Such person shall inform the commissioner of his or her intention on the original license application under section 2202 of this title, any renewal application under section 2209 of this title, or pursuant to section 2208 of this title, and shall pay the applicable fees required by subsection 2202(b) of this title for a mortgage broker license or sales finance company license.

Second: By adding Sec. 1b to read as follows:

Sec. 1b. 8 V.S.A. § 2500(2) is amended to read:

(2) “Authorized delegate” means a person located in this state that a licensee designates to provide money services on behalf of the licensee.

Third: In Sec. 4, subdivision (b)(3), by striking out the word “serves” and by inserting in lieu thereof “served”

Fourth: By adding Sec. 4a to read as follows:

Sec. 4a. 8 V.S.A. § 3577 is amended to read:

§ 3577. REQUIREMENTS FOR ACTUARIAL OPINIONS

(a) Each licensed insurance company shall include on or attached to its annual statement submitted under section 3561 of this title a statement of a qualified actuary, entitled “statement of actuarial opinion,” setting forth an opinion on life and health policy and claim reserves and an opinion on property and casualty loss and loss adjustment expenses reserves.

(b) The “statement of actuarial opinion” shall be treated as a public document and shall conform to the Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries, the standards of the Casualty Actuarial Society, and such additional standards as the commissioner may establish by rule. The commissioner by rule shall establish minimum standards applicable to the valuation of health disability, sickness and accident plans.

(c) Opinions required by this section shall apply to all business in force, and shall be stated in form and in substance acceptable to the commissioner as prescribed by rule.

(1) In the case of property and casualty insurance companies domiciled in this state, every company that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, written by the company’s appointed actuary. This actuarial opinion summary shall be filed in accordance with the appropriate Property and Casualty Annual Statement Instructions of the National Association of Insurance Commissioners (NAIC) and shall be considered as a document supporting the actuarial opinion required in subsection (a) of this section. A property and casualty insurance company licensed but not domiciled in this state shall provide the actuarial opinion summary upon request.

(2) In the case of property and casualty insurance companies, an actuarial report and underlying work papers, as required by the appropriate Property and Casualty Annual Statement Instructions of the NAIC, shall be prepared to support each actuarial opinion. If the property and casualty insurance company fails to provide a supporting actuarial report or work papers at the request of the commissioner or if the commissioner determines that the supporting actuarial report or work papers provided by the insurance company is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting actuarial report or work papers.

(3) In the case of property and casualty insurance companies, the appointed actuary shall not be liable for damages to any person other than the insurance company and the commissioner for any act, error, omission, decision, or conduct with respect to the actuary’s opinion, except in cases of fraud or willful misconduct on the part of the appointed actuary.

* * *

(1) Actuarial reports, actuarial opinion summaries, work papers, and any other documents, information, or materials provided to the department in

connection with the actuarial report, work papers, or actuarial opinion summary shall be confidential by law and privileged, shall not be subject to inspection and copying under 1 V.S.A. § 316, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private litigation.

(1) This subsection shall not be construed to limit the commissioner's authority to release documents to the Actuarial Board for Counseling and Discipline, provided the material is required for the purpose of professional disciplinary proceedings and further provided that procedures satisfactory to the commissioner are established for preserving the confidentiality of the documents, nor shall this subsection be construed to limit the commissioner's authority to use the documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(2) Neither the commissioner nor any person who receives documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information under this subsection.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may:

(A) Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (d) of this section, with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the legal authority to maintain confidentiality.

(B) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of the

disclosure to the commissioner under this section or as a result of sharing as authorized by subdivision (3) of this subsection.

Fifth: By adding Sec. 4b to read as follows:

Sec. 4b. 8 V.S.A. § 3634a(j) is added to read:

(j)(1) If reinsurance is ceded to an assuming insurer not meeting the requirements of this subsection and subsections (a) through (i) of this section, the commissioner may allow in his or her discretion full or reduced credit for the reinsurance, provided the commissioner has determined that the assuming insurer is an eligible reinsurer in accordance with this subsection, and the assuming insurer:

(A) Holds surplus in excess of \$100,000,000.00.

(B) Has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner. The commissioner shall give appropriate consideration to insurer group ratings that may have been issued.

(2) The commissioner may, in lieu of granting full credit under this subsection, reduce the amount required to be held in trust under subsection (h) of this section.

(3) In determining whether credit should be allowed, the commissioner shall consider the following:

(A) The domiciliary regulatory jurisdiction of the assuming insurer.

(B) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and the financial surveillance of the reinsurer.

(C) The substance of financial and operating standards for reinsurers in the domiciliary jurisdiction.

(D) The form and substance of financial reports required to be filed by the reinsurers in the domiciliary jurisdiction or other public financial statements filed in accordance with generally accepted accounting principles.

(E) The domiciliary regulator's willingness to cooperate with United States regulators in general and the department in particular.

(F) The history of performance by reinsurers in the domiciliary jurisdiction.

(G) Any documented evidence of substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction.

(H) Any other matters deemed relevant by the commissioner.

(4) The commissioner's determination that an assuming insurer is an eligible reinsurer shall include such measures as the commissioner determines are necessary and sufficient to assure market stability and the solvency of ceding insurers and to ensure the payment of valid claims against the eligible reinsurer, including:

(A) The execution of a memorandum of understanding with the domicile insurance regulator of the eligible reinsurer providing for communication between insurance regulators and the sharing of information relating to the eligible reinsurer;

(B) the filing of financial and other information by the eligible reinsurer satisfactory to the commissioner;

(C) the eligible reinsurer's submission to the jurisdiction of the courts of the United States of America;

(D) the eligible reinsurer's appointment of an agent for service of process in Vermont;

(E) one or more conditions imposed on the determination of eligibility such that inadequate performance on the payment of valid claims against the reinsurer, or a material change in the financial condition of the eligible reinsurer, or failure to comply with one or more of the terms and conditions of the commissioner's determination may result in the withdrawal of the commissioner's approval of reduced collateral, an increase in the collateral required, or the termination of the reinsurer's status as an eligible reinsurer, or some similarly effective enforcement measure; and

(F) the expiration of the commissioner's initial determination no later than three years following its issuance. During such period of time a ceding insurer may take 100 percent credit on account of reinsurance ceded to the eligible reinsurer only if the eligible reinsurer's collateral is reduced to no less than 20 percent.

Sixth: By adding Sec. 4c to read as follows:

Sec. 4c. REINSURANCE COLLATERAL; REPORT REQUIRED

The commissioner of banking, insurance, securities and health care administration shall submit in electronic format an annual report to the house committee on commerce and economic development and the senate committee on finance beginning January 15, 2011, and for the next succeeding four years. The report shall include an assessment of the implementation of, and experience with the reinsurance collateral provision enacted in Sec. 4b of this act. It shall describe the department's activities in implementing the

reinsurance collateral provision, the assuming insurers that the commissioner has determined to be eligible reinsurers, and after implementation, the department's experience in administrating the reinsurance collateral provision.

Seventh: By striking out Sec. 7 in its entirety and by inserting in lieu thereof the following:

Sec. 7. 8 V.S.A. § 3810a(c) is added to read:

(c) The lives of individuals insured under a group policy authorized by this subchapter may continue to be insured following termination of employment, membership, or other affiliation of the individual with the group under a portability group approved by the commissioner, provided that the group policy complies with all the applicable requirements of this subchapter.

Eighth: By adding Sec. 7a to read as follows:

Sec. 7a. 8 V.S.A. § 4153 is amended to read:

§ 4153. SCOPE

(a) This subchapter shall provide coverage for the policies and contracts specified in subsection (b) of this section:

(1) ~~to~~ To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts and except for payees and beneficiaries of structured settlement annuities as specified in subdivision (3) of this subsection), are the beneficiaries, assignees, or payees of the persons covered under subdivision (2) of this subsection, ~~and~~.

(2) ~~to~~ To persons who are owners of or certificate holders under such policies or contracts or, in the case of unallocated annuity contracts, to the persons who are the contract holders; and who

(A) are residents of this state, or

(B) are not residents of this state, but only if all of the following conditions are met:

(i) the insurers which issued such policies or contracts are domiciled in this state;

(ii) such insurers never held a license or certificate of authority in the states in which such persons reside;

(iii) such states have associations similar to the association created by this subchapter; and

(iv) such persons are not eligible for coverage by such associations.

(3) To persons who are a payees under structured settlement annuities, or beneficiaries of such deceased payees, but only if the payees:

(A) are residents of this state, regardless of where the contract owners reside; or

(B) are not residents of this state, but only if both of the following conditions are met:

(i)(I) the contract owners of such structured settlement annuities are residents of this state; or

(II) the contract owners of such structured settlement annuities are not residents of this state, but only if:

(aa) the insurers which issued such structured settlement annuities are domiciled in this state; and

(bb) the states in which such contract owners reside have associations similar to the association created by this subchapter; and

(ii) Neither the payees, beneficiaries, nor the contract owners are eligible for coverage by the associations of the states in which such payees or contract owners reside.

Ninth: By adding Sec. 7b to read as follows:

Sec. 7b. 8 V.S.A. § 4153(b)(2) is amended to read:

(2) This subchapter shall not provide coverage for:

* * *

(C) any portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

* * *

(G) any unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation; and

* * *

(I) any portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which has not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a

policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subdivision, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture; and

(J) any policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant Medicare Part C or Part D of subchapter XVIII, Chapter 7 of Title 42 of the United States Code, or any regulations issued pursuant thereto.

Tenth: By adding Sec. 7c to read as follows:

Sec. 7c. 8 V.S.A. § 4155 is amended to read:

§ 4155. DEFINITIONS

* * *

(7) "Impaired insurer" means:

~~(A) an insurer which after April 27, 1972, becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction, or~~

~~(B) an insurer determined by the commissioner after April 27, 1972 to be unable or potentially unable to fulfill its contractual obligations~~ a member insurer which, after the effective date of this subchapter, is not an insolvent insurer and who is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(8) "Insolvent insurer" means a member insurer which, after the effective date of this subchapter, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

~~(8)~~(9) "Member insurer" means any person authorized to transact in this state any kind of insurance to which this subchapter applies under section 4153 of this title.

~~(9)~~(10) "Premiums" means amounts received on covered policies or contracts less premiums, considerations and deposits returned thereon, and less dividends and experience credits thereon. "Premiums" does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under subsection 4153(b) of this title except that assessable premium shall not be reduced on account of subdivisions 4153(b)(2)(C), relating to interest limitations, and

4158(8) of this title relating to limitations with respect to any one individual, any one participant and any one contract holder; provided that “premiums” shall not include any premiums in excess of ~~one million dollars~~ \$5,000,000.00 on any unallocated annuity contract not issued under a governmental retirement plan established under section 401, subsection 403(b) or section 457 of the United States Internal Revenue Code.

~~(11)~~(10) “Person” means any individual, corporation, partnership, association or voluntary organization.

~~(11)~~(12) “Resident” means any person who resides in this state ~~at the time the impairment is determined~~ on the date of entry of a court order that determines a member insurer to be an impaired insurer or of a court order that determines a member insurer to be an insolvent insurer, and to whom contractual obligations are owed. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business.

~~(12)~~(13) “Moody’s Corporate Bond Yield Average” means the Monthly Average Corporates as published by Moody’s Investors Service, Inc., or any successor thereto.

~~(13)~~(14) “Supplemental contract” means any agreement entered into for the distribution of policy or contract proceeds.

~~(14)~~(15) “Unallocated annuity contract” means any annuity contract or group annuity certificate which is not issued to and owned by an individual except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate and shall include guaranteed investment contracts, guaranteed interest contracts, guaranteed accumulation contracts, deposit administration contracts, and unallocated funding agreements.

Eleventh: By adding Sec. 7d to read as follows:

Sec. 7d. 8 V.S.A. § 4158 is amended to read as follows:

§ 4158. POWERS AND DUTIES OF THE ASSOCIATION

In addition to the powers and duties enumerated in other sections of this subchapter:

(1) If a ~~domestic insurer is an impaired insurer, the association,~~

~~(A) may, prior to an order of liquidation or rehabilitation, and subject to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer and approved by the impaired insurer and the commissioner; or~~

~~(B) shall, after entry of an order of liquidation or rehabilitation, subject to any conditions imposed by the association and approved by the commissioner, guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of the impaired insurer, and shall make or cause to be made prompt payment of the contractual obligations of the impaired insurer~~ member insurer is an impaired insurer, the association, in its discretion and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner, may:

(A) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer; and

(B) provide such monies, pledges, loans, notes, guarantees, or other means as are proper to effectuate subdivision (A) of this subdivision (1) and assure payment of the contractual obligations of the impaired insurer pending action under subdivision (A) of this subdivision (1).

~~(2) If a foreign or alien insurer is an impaired insurer under an order of liquidation, rehabilitation, or conservation, the association shall, subject to any conditions imposed by the association and approved by the commissioner, guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of residents, and shall make or cause to be made prompt payment of the impaired insurer's contractual obligations to residents~~ member insurer is an insolvent insurer, the association, in its discretion, shall either:

(A)(i)(I) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the policies or contracts of the insolvent insurer; or

(II) Assure payment of the contractual obligations of the insolvent insurer; and

(ii) Provide monies, pledges, loans, notes, guarantees, or other means reasonably necessary to discharge the association's duties; or

(B) Provide benefits and coverages in accordance with the following provisions:

(i) With respect to life and health insurance policies and annuities, assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred:

(I) With respect to group policies and contracts, not later than

the earlier of the next renewal date under those policies or contracts or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to the policies and contracts.

(II) With respect to nongroup policies, contracts, and annuities, not later than the earlier of the next renewal date (if any) under the policies or contracts or one year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to the policies or contracts.

(ii) Make diligent efforts to provide all known insureds or annuitants (for nongroup policies and contracts), or group policy owners with respect to group policies and contracts, 30 days notice of the termination, pursuant to subdivision (i) of this subdivision (B), of the benefits provided.

(iii) With respect to nongroup life and health insurance policies and annuities covered by the association, make available to each known insured or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly insured or formerly an annuitant under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of subdivision (iv) of this subdivision (B), if the insureds or annuitants had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or annuity or had a right only to make changes in premium by class.

(iv)(I) In providing the substitute coverage required under subdivision (iii) of this subdivision (B), the association may offer either to reissue the terminated coverage or to issue an alternative policy.

(II) Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(III) The association may reinsure any alternative or reissued policy.

(v)(I) Alternative policies adopted by the association shall be subject to the approval of the domiciliary insurance commissioner and the receivership court. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

(II) Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be

unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

(III) Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(vi) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the domiciliary insurance commissioner and the receivership court;

(vii) The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date the coverage or policy is replaced by another similar policy by the policy owner, the insured, or the association;

(viii) When proceeding under subdivision (B) with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with subdivision 4153(b)(2)(C) of this title.

* * *

(6) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this subchapter. Such standing shall extend to all matters germane to the powers and duties of the association.

(7)(A) Any person receiving benefits under this subchapter shall be deemed to have assigned his rights under the covered policy to the association to the extent of the benefits received because of this subchapter whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this subchapter upon such person. The association shall be subrogated to these rights against the assets of any impaired or insolvent insurer.

(B) The subrogation rights of the association under this subdivision shall have the same priority against the assets of the impaired or insolvent

insurer as that possessed by the person entitled to receive benefits under this subchapter.

(8) The benefits for which the association may become liable shall in no event exceed the lesser of:

(A) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(B)(i) With respect to any one life, regardless of the number of policies or contracts:

(I) \$300,000.00 in life insurance death benefits, but not more than \$100,000.00 in net cash surrender and net cash withdrawal values for life insurance;

(II) In health insurance benefits:

(aa) \$100,000.00 for coverages not defined as disability insurance or basic hospital, medical, and surgical insurance, or major medical insurance, or long-term care insurance, including any net cash surrender and net cash withdrawal values;

(bb) \$300,000.00 for disability insurance and \$300,000.00 for long-term care insurance;

(cc) \$500,000.00 for basic hospital, medical, and surgical insurance, or major medical insurance; or

(III) \$250,000.00 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; or

(ii) With respect to each individual participating in a governmental retirement plan established under Section 401, 403(b), or 457 of the U.S. Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, \$250,000.00 in present value annuity benefits, including net cash surrender and net cash withdrawal values; or

(iii) With respect to each payee of a structured settlement annuity (or beneficiary or beneficiaries of the payee if deceased) for which coverage is provided under subdivision 4153(a)(3) of this title, \$ 250,000.00 in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(iv) With respect to any one contract holder covered by any unallocated annuity contract not included in subdivision (B)(ii) of this subdivision (8), \$5,000,000.00 in benefits, irrespective of the number of such contracts held by that contract holder; and

(iv) Provided, however, that in no event shall the association be liable to expend more than \$300,000.00 in the aggregate with respect to any one individual under subdivisions (B)(i)(I), (B)(i)(II)(aa) and (bb), B(i)(III), (B)(ii), and (B)(iii) of this subdivision (8); and provided further, however, that in no event shall the association be liable to expend more than \$500,000.00 in the aggregate with respect to any one individual under subdivision (B)(i)(II)(cc) of this subdivision (8).

* * *

(10)(A)(i) At any time within 180 days of the date of the order of liquidation, the association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies or annuities covered, in whole or in part, by the association, in each case under any one or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the association. Any such assumption shall be effective as of the date of the order of liquidation. The election shall be effected by the association or the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) on its behalf sending written notice, return receipt requested, to the affected reinsurers.

(ii) To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and in order to protect the financial position of the estate, the receiver and each reinsurer of the ceding member insurer shall make available upon request to the association or to NOLHGA on its behalf as soon as possible after commencement of formal delinquency proceedings: copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed; and notices of any defaults under the reinsurance contracts or any known event or condition which with the passage of time could become a default under the reinsurance contracts.

(iii) The following subdivisions (I) through (IV) shall apply to reinsurance contracts so assumed by the association:

(I) The association shall be responsible for all unpaid premiums due under the reinsurance contracts for periods both before and after the date of the order of liquidation, and shall be responsible for the performance of all other obligations to be performed after the date of the order of liquidation, in each case which relate to policies or annuities covered, in whole or in part, by the association. The association may charge policies or annuities covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association and shall provide notice and an accounting of these charges to the receiver.

(II) The association shall be entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and that relate to policies or annuities covered, in whole or in part, by the association, provided that, upon receipt of any such amounts, the association shall be obliged to pay to the beneficiary under the policy or annuity on account of which the amounts were paid a portion of the amount equal to the lesser of:

(aa) The amount received by the association; and

(bb) The excess of the amount received by the association over the amount equal to the benefits paid by the association on account of the policy or annuity less the retention of the insurer applicable to the loss or event.

(III) Within 30 days following the association's election (the "election date"), the association and each reinsurer under contracts assumed by the association shall calculate the net balance due to or from the association under each reinsurance contract as of the election date with respect to policies or annuities covered, in whole or in part, by the association, which calculation shall give full credit to all items paid by either the insurer or its receiver or the reinsurer prior to the election date. The reinsurer shall pay the receiver any amounts due for losses or events prior to the date of the order of liquidation, subject to any set-off for premiums unpaid for periods prior to the date, and the association or reinsurer shall pay any remaining balance due the other, in each case within five days of the completion of the aforementioned calculation. Any disputes over the amounts due to either the association or the reinsurer shall be resolved by arbitration pursuant to the terms of the affected reinsurance contracts or, if the contract contains no arbitration clause, as otherwise provided by law. If the receiver has received any amounts due the association pursuant to subdivision (iii)(II) of this subdivision (A), the receiver shall remit the same to the association as promptly as practicable.

(IV) If the association or receiver, on the association's behalf, within 60 days of the election date, pays the unpaid premiums due for periods both before and after the election date that relate to policies or annuities covered, in whole or in part, by the association, the reinsurer shall not be entitled to terminate the reinsurance contracts for failure to pay premium insofar as the reinsurance contracts relate to policies or annuities covered, in whole or in part, by the association, and shall not be entitled to set off any unpaid amounts due under other contracts, or unpaid amounts due from parties other than the association, against amounts due the association.

(B) During the period from the date of the order of liquidation until the election date (or, if the election date does not occur, until 180 days after the

date of the order of liquidation):

(i)(I) Neither the association nor the reinsurer shall have any rights or obligations under reinsurance contracts that the association has the right to assume under subdivision (A) of this subdivision (10), whether for periods prior to or after the date of the order of liquidation; and

(II) The reinsurer, the receiver, and the association shall, to the extent practicable, provide each other data and records reasonably requested;

(ii) Provided that once the association has elected to assume a reinsurance contract, the parties' rights and obligations shall be governed by subdivision (A) of this subdivision (10).

(C) If the association does not elect to assume a reinsurance contract by the election date pursuant to subdivision (A) of this subdivision (10), the association shall have no rights or obligations, in each case for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.

(D) When policies or annuities, or covered obligations with respect thereto, are transferred to an assuming insurer, reinsurance on the policies or annuities may also be transferred by the association, in the case of contracts assumed under subdivision (A) of this subdivision (10), subject to the following:

(i) Unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred shall not cover any new policies of insurance or annuities in addition to those transferred;

(ii) The obligations described in subdivision (A) of this subdivision (10) shall no longer apply with respect to matters arising after the effective date of the transfer; and

(iii) Notice shall be given in writing, return receipt requested, by the transferring party to the affected reinsurer not less than 30 days prior to the effective date of the transfer.

(E) The provisions of this subdivision (10) shall supersede the provisions of any law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of the order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver shall remain entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods prior to the date of the order of liquidation, subject to applicable setoff provisions.

(F) Except as otherwise provided in this section, nothing in this

subdivision (10) shall alter or modify the terms and conditions of any reinsurance contract. Nothing in this section shall abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance contract. Nothing in this section shall give a policyholder or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract. Nothing in this section shall limit or affect the association's rights as a creditor of the estate against the assets of the estate. Nothing in this section shall apply to reinsurance agreements covering property or casualty risks.

Twelfth: By adding Sec. 7e to read as follows:

Sec. 7e. CONFORMING AMENDMENTS

The legislative council, when codifying the amendments enacted by this act to chapter 112 of Title 8, Vermont Statutes Annotated, shall also amend chapter 112 as follows:

(1) In 8 V.S.A. §§ 4158(3), (5) and (9), 4159, 4161(1) and (4), 4164, and 4169, by striking the word "impaired" wherever it appears and inserting in lieu thereof the words "impaired or insolvent"; and

(2) In 8 V.S.A. §§ 4152, 4161(1)(C), and 4162, by striking out the word "impairment" wherever it appears and inserting in lieu thereof the words "impairment or insolvency."

Thirteenth: By adding Sec. 7f to read as follows:

Sec. 7f. 8 V.S.A. § 8204 is amended to read:

§ 8204. ASSUMPTION, TRANSFER AND NOTICE REQUIREMENTS

(a) The Except as provided in, and subject to subsection 8207(d) of this title, the transferring insurer shall provide or cause to be provided to each policyholder a notice of transfer by first-class mail, addressed to the policyholder's last known address or to the address to which premium notices or other policy documents are sent or, with respect to home service business, by personal delivery with receipt acknowledged by the policyholder. A notice of transfer shall also be sent to the transferring insurer's agents or brokers of record on the affected policies.

* * *

(j) The Except as provided in, and subject to subsection 8207(d) of this title, the commissioner may modify the notice requirements of this chapter if the commissioner determines that the transfer is between affiliates or that the transfer is not contemplated within the purposes of this chapter.

Fourteenth: By adding Sec. 7g to read as follows:

Sec. 7g. 8 V.S.A. § 8207(d) is amended to read:

(d) In the case of policyholders who do not reside in this state, and where the insurance regulatory authority in such other state has approved or intends to approve the notice requirements and other policyholder rights with respect such policyholders, the commissioner shall defer to the decisions of such other insurance regulatory authority. In the case of policyholders who do not reside in this state, and where the insurance regulatory authority in such other state has not established an obligation to file forms used by an insurer in a transaction under this subchapter, the commissioner may modify notice requirements and other policyholder rights when in his or her judgment it appears that the interests of the policyholders and insurers are best served by the exercise of such discretion. Factors to be considered in making this determination shall include the following:

* * *

Fifteenth: By striking out Sec. 8 in its entirety and by inserting in lieu thereof the following:

Sec. 8. 8 V.S.A. § 4800(4) is added to read:

(4) In order to assist in the performance of the commissioner's duties under this chapter, the commissioner may:

(A) contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, and the collection of system charges related to producer licensing or to any other activities which require a license under this chapter that the commissioner and the nongovernmental entity may deem appropriate;

(B) participate, in whole or in part, with the NAIC, or any affiliates or subsidiaries the NAIC oversees, in a centralized producer license registry to effect the licensure and appointment of producers and other persons required to be licensed under this chapter;

(C) adopt by rule any uniform standards and procedures as are necessary to participate in a centralized registry. Such rules may include the central collection of all fees and system charges for license or appointments that are processed through the registry, and the establishment of uniform license and appointment renewal dates;

(D) require persons engaged in activities which require a license under this chapter to make any filings with the department in a digital, electronic manner approved by the commissioner for applications, renewal,

amendments, notifications, reporting, appointments, terminations, the payment of fees and system charges, and such other activities relating to licensure under this chapter as the commissioner may require, subject to such hardship circumstances demonstrated by the applicant or licensee which the commissioner deems appropriate for the utilization of the central registry in a nondigital and nonelectronic manner; and

(E)(i) authorize the centralized producer license registry to collect fingerprints on behalf of the commissioner in order to receive or conduct criminal history background checks;

(ii) use the centralized producer license registry as a channeling agent for requesting information from and distributing information to the U.S. Department of Justice or any governmental agency, in order to reduce the points of contact which the Federal Bureau of Investigation (FBI) or the commissioner may have to maintain for purposes of this subsection; and

(iii) require persons engaged in activities that require a license under this chapter to submit fingerprints, and the commissioner may utilize the services of the centralized producer license registry to process the fingerprints and to submit the fingerprints to the FBI, the Vermont state police, or any equivalent state or federal law enforcement agency for the purpose of conducting a criminal history background check. The licensee or applicant shall pay the cost of such criminal history background check, including any charges imposed by the centralized producer licensing system.

Sixteenth: By adding a Sec. 9a to read as follows:

Sec. 9a. REPEAL

8 V.S.A. § 4807(b) (surplus lines broker; requirement of one year's experience) is repealed.

Seventeenth: By striking out Sec. 24 in its entirety and by inserting in lieu thereof the following:

Sec. 24. 8 V.S.A. § 4081 is amended to read:

§ 4081. BLANKET HEALTH INSURANCE

(a) Blanket health insurance is hereby declared to be that form of health insurance which is supplemental to comprehensive health insurance, or which provides coverage other than the payment of all or a portion of the cost of health care services or products, and covering special groups of persons set forth as follows:

(1) Under a policy or contract issued to any common carrier, which shall be deemed the policyholder, covering a group defined as all persons who may

become passengers on such common carrier;

(2) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering any group of employees defined by reference to exceptional hazards incident to such employment;

(3) Under a policy or contract issued to a college, school, or other institution of learning or to the head or principal thereof, who or which shall be deemed the policyholder, covering students or teachers;

(4) Under a policy or contract issued in the name of any volunteer fire department, first aid, or other such volunteer group, which shall be deemed the policyholder, covering all of the members of such department or group in connection with their department or group activities; or

(5) Under a policy or contract issued to any other substantially similar group which, in the discretion of the commissioner and after the prior approval by the commissioner of the group, may be subject to the issuance of a blanket health policy or contract.

Eighteenth: By striking out Sec. 25 in its entirety and by inserting in lieu thereof the following:

Sec. 25. 8 V.S.A. § 4082 is amended to read:

§ 4082. BLANKET INSURANCE; POLICY CONTENTS

1) (a) No such blanket health insurance policy shall contain any provision relative to notice of claim, proofs of loss, time of payment of claims, or time within which legal action must be brought upon the policy which, in the opinion of the commissioner, is less favorable to the persons insured than would be permitted by the provisions set forth in section 4065 of this title. An individual application shall not be required from a person covered under a blanket health policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate. All benefits under any blanket health policy shall, unless for hospital and physician service or surgical benefits, be payable to the person insured, or to his or her designated beneficiary or beneficiaries, or to his or her estate, except that if the person insured be a minor, such benefits may be made payable to his or her parent, guardian, or other person actually supporting him or her. Nothing contained in this section or section 4081 of this title shall be deemed to affect the legal liability of policyholders for the death of, or injury to, any such members of such group.

(b) No such blanket health insurance policy which provides coverage for the payment of all or a portion of the cost of health care services or products shall contain any provision not in compliance with a requirement of this title, or a rule adopted pursuant to this title applicable to health insurance, other than

those requirements applicable to nongroup health insurance or small group health insurance. The commissioner may waive the application to a blanket insurance policy of one or more of the health insurance requirements of this title, or a rule adopted pursuant to this title, if such requirement is not relevant to the types of risks and duration of risks insured against in such blanket insurance policy.

Nineteenth: By adding Sec. 26a to read as follows:

Sec. 26a. Sec. 51(h) of No. 61 of the Acts of 2009 is amended to read:

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

Twentieth: By adding Sec. 28a to read as follows:

Sec. 28a. 32 V.S.A. § 8557(b) is added to read:

(b) The executive director of the division of fire safety shall, at the end of each fiscal quarter, prepare a comprehensive written report on the status of training programs and expenditures to date. The report shall be submitted to the commissioner of public safety, the chairperson of the legislative joint fiscal committee when the legislature is not in session and the chairperson of the house appropriations committee when the legislature is in session. The department of public safety shall continue to provide budgeting, accounting and administrative support to the Vermont division of fire safety as such was originally described in Sec. 98 of Act No. 245 of the Acts of 1992.

Twenty-first: In Sec. 29, by striking out subsection (a) in its entirety and by inserting in lieu thereof the following:

(a) This act shall take effect on July 1, 2010, except that this section, Secs. 16 through 23 (captive insurance companies), 26a (fair contract standards; summary disclosure form), and 27 (health information technology assessment) shall take effect on passage.

(b) Sec. 4 (registered agent for financial institutions) shall take effect on October 1, 2010.

and by relettering the remaining subsections to be alphabetically correct

(Committee vote: 11-0-0)

(For text see Senate Journal 2/4/10)

S. 295

An act relating to the creation of an agricultural development director

Rep. Stevens of Shoreham, for the Committee on Agriculture, 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:

* * * Agricultural Development * * *

Sec. 1. FINDINGS

The general assembly finds:

(1) Vermont agriculture is the most visible industry in Vermont. Farmers provide food, and they steward the land, which provides natural habitat and scenery that is central to Vermont's character and working landscape.

(2) Forestry is also central to Vermont's character and working landscape, and 75 percent of Vermont is forested.

(3) Agriculture and forestry are major drivers of the tourism industry and offer many other recreational values and benefits.

(4) Ninety-five percent of Vermont's visitors purchase locally produced food items while in the state, and two-thirds of these visitors report purchasing Vermont-made products while at home.

(5) The Vermont brand, which signals quality and value and reminds consumers of the rural beauty of Vermont, presents considerable opportunities for expanding out-of-state markets for value-added Vermont products.

(6) Vermont agricultural producers should play an important role in supplying the regional food system while enhancing and expanding the development of regional agriculturally related markets.

(7) Vermont agriculture's impact on the state's economy is significant. The total value of direct, indirect, and value-added Vermont agricultural products sold in 2008 was \$2.3 billion. The farm-gate revenue generated by Vermont agricultural products sold in 2008 was \$673.7 million. Agri-tourism and recreational services related to agriculture had a 2008 market value of \$1.5 million.

(8) Vermont's tourism industry is highly dependent on the pervasiveness of agriculture and forestry in the state and contributes \$2 billion to the state's economy each year.

(9) Ninety-seven percent of Vermonters also support the state's agriculture and working landscape, and support for the viability of agriculture.

including innovative agriculture, is long recognized.

(A) Relationship-based food systems such as farm-to-school programs, community supported agriculture (CSA) programs, farmers' markets, and pick-your-own operations are increasingly popular and offer areas of opportunity for farmers.

(B) The Vermont council on rural development, the Vermont housing and conservation board, the sustainable agriculture council, and others have each issued detailed reports on how to enhance the sustainability of agriculture and forestry in this state.

(C) The general assembly enacted No. 38 of the Acts of 2007, an act relating to the viability of Vermont agriculture, with specific recommendations as to how to "support and develop a more robust and self-sustaining agricultural sector that also promotes agricultural industries."

(D) The Farm-to-Plate Investment Program, approved at the end of the 2009 Vermont legislative session, directs the Vermont sustainable jobs fund, in consultation with the sustainable agriculture council and other stakeholders, to develop a 10-year strategic plan to strengthen Vermont's farm and food sector.

(10) Over the years there have been many reports and plans produced by a variety of stakeholders, including the agency of agriculture, food and markets. While some of the resulting recommendations have been adopted, such as the buy local program, the small business development center, and the installation of electronic benefits transfer machines at farmers' markets, the successful implementation of other recommendations could be enhanced through the sustained attention and actions of an entity such as the proposed agricultural development board.

(11) The agency of agriculture, food and markets has a broad range of expertise and experience that can contribute to the success of the agricultural development board.

(12) In order to provide continuity for the development and implementation of a comprehensive agricultural economic development policy, and to protect and promote Vermont's agricultural and working landscape, a new body of state leaders and creative thinkers is needed to implement agricultural development strategies, including the Farm-to-Plate Investment Program's strategic plan.

(13) In order to provide continuity of agricultural development work within the agency of agriculture, food, and markets, the leadership role within the agency's agricultural development division should return to a classified

position.

Sec. 2. ELIMINATION OF POSITION OF DEPUTY COMMISSIONER
FOR AGRICULTURAL DEVELOPMENT AND CREATION OF
POSITION OF AGRICULTURAL DEVELOPMENT
DIRECTOR

(a) The general assembly authorizes and directs the elimination of the position of deputy commissioner for agricultural development within the agency of agriculture, food and markets.

(b) The general assembly authorizes and directs the creation of a position of agricultural development director within the agency of agriculture, food and markets. The position shall be a classified position. The director's responsibilities shall be those set forth in 6 V.S.A. § 2963(b) and those delegated by the secretary.

Sec. 3. 3 V.S.A. § 253(e) is amended to read:

* * *

(e) The secretary of agriculture, food and markets, with the approval of the governor, shall appoint a deputy commissioner for administration and enforcement, and a deputy commissioner for agricultural development. The secretary of agriculture, food and markets may remove the deputy commissioner at pleasure, and he or she shall be responsible for their the deputy commissioner's acts. The agency of agriculture, food and markets shall be so organized that, subject to the supervision of the secretary of agriculture, food and markets, the functions and duties that relate to administration and enforcement shall be in the charge of the deputy commissioner of administration and enforcement, and those that relate to agricultural development shall be in the charge of the deputy commissioner of agricultural development.

Sec. 4. 6 V.S.A. § 2966 is added to read:

§ 2966. AGRICULTURAL DEVELOPMENT BOARD; ORGANIZATION;
DUTIES AND AUTHORITY

(a) Purpose. The purpose of this section is to create a permanent Vermont agricultural development board that is authorized and empowered as the state's primary agricultural development entity.

(1) The board is charged with:

(A) optimizing the agricultural use of Vermont lands and other agricultural resources;

(B) expanding existing markets and identifying and developing new

profitable in-state and out-of-state markets for food, fiber, forest products, and value-added agricultural products, including farm-derived renewable energy; and

(C) identifying opportunities and challenges related to infrastructure, product development, marketing, training, research, and education;

(2) The board shall:

(A) review existing strategies and plans and develop, implement, and continually update a comprehensive statewide plan to guide and encourage agricultural development and new and expanded markets for agricultural and forest products;

(B) advise and make recommendations to the secretaries of relevant state agencies, the governor, the director of the state experiment station, the University of Vermont extension service, and the general assembly on the adoption and amendment of laws, regulations, and governmental policies that affect agricultural development, land use, access to capital, the economic opportunities provided by Vermont agriculture, and the well-being of the people of Vermont;

(C) monitor and report on Vermont's progress in achieving the agricultural economic development goals identified by the board; and

(D) balancing the needs of production methods with the opportunities to market products that enhance Vermont agriculture.

(b) Board created. The Vermont agricultural development board is hereby created. The exercise by the board of the powers conferred upon it in this section constitutes the performance of essential governmental functions.

(c) Powers and duties. The board shall have the authority and duty to:

(1) meet, at least quarterly, to conduct such business and take such action as is necessary to perform the duties set forth in this section;

(2) design and conduct an ongoing public engagement process, which may include taking testimony and receiving information from any party interested in the board's activities;

(3) gain information through the use of experts, consultants, and data to perform analysis as needed, and obtain necessary data and information from state economists, state administrative agencies, and programs such as the farm-to-plate initiative; and

(4) serve as a resource for and make recommendations to the administration and the general assembly on ways to improve Vermont's laws, regulations, and policies in order to attain the goals of the comprehensive

agricultural economic development plan.

(5) develop an annual operating budget; and

(A) solicit any grants, gifts, or appropriations necessary to implement the budget.

(B) expend any monies necessary to carry out the purposes of this section.

(d) Comprehensive agricultural economic development plan.

(1) Using information available from previous and ongoing agricultural development planning efforts, such as the farm-to-plate investment program's strategic plan, and the board's own data and assumptions, the board shall develop and implement a comprehensive agricultural economic development plan for the state of Vermont. The plan shall include, at minimum, the following:

(A) an assessment of the current status of agriculture in Vermont;

(B) current and projected workforce composition and needs;

(C) a profile of emerging business and industry sectors projected to present future agricultural economic development opportunities, and a cost-benefit analysis of strategies and resources necessary to capitalize on these opportunities;

(D) a profile of current components of physical and social infrastructure affecting agricultural economic development;

(E) a profile of government-sponsored programs, agricultural economic development resources, and financial incentives designed to promote and support agricultural economic development, and a cost-benefit analysis of continued support, expansion, or abandonment of these programs, resources, and incentives;

(F) the use of the Vermont brand to further agricultural development;

(G) the enhancement and expansion of out-of-state marketing of Vermont products; and

(H) any additional issues as the board determines appropriate.

(2) Based on its research and analysis, the board shall establish in the plan a set of clear strategies with defined and measurable outcomes for agricultural economic development, the purpose of which shall be to guide long-term agricultural economic development policymaking and planning.

(3) Within one year of its first meeting, the board shall present the plan

to the governor and the house committee on agriculture, the senate committee on agriculture, the house committee on commerce and economic development, and the senate committee on economic development, housing and general affairs as the Vermont comprehensive plan for agricultural economic development.

(4) The board shall conduct a periodic review and revision of the comprehensive agricultural economic development plan as often as is necessary in its discretion, but at minimum every five years, to ensure the plan remains current, relevant, and effective for guiding and evaluating agricultural economic development policy.

(5) The board shall within one year of adopting the plan develop benchmarking standards to measure progress in meeting the plan's goals and outcomes.

(e) Annual report. The board shall make available a report, at least annually, to the administration, the house committee on agriculture, the senate committee on agriculture, the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the people of Vermont on the state's progress toward attaining the goals and outcomes identified in the comprehensive agricultural economic development plan.

(f) Composition of board.

(1) The board shall be composed of 12 members. In making appointments to the board pursuant to this section, the governor, the speaker of the house, and the president pro tempore of the senate shall coordinate their selections to ensure, to the greatest extent possible, that the board members selected by them reflect the following qualities:

(A) proven leadership in a broad range of efforts and activities to promote and improve the Vermont agricultural economy and the quality of life of Vermonters;

(B) demonstrated innovation, creativity, collaboration, pragmatism, and willingness to make long-term commitments of time, energy, and effort;

(C) geographic, gender, ethnic, social, political, and economic diversity;

(D) diversity of agricultural enterprise location, size, and sector of the for-profit agricultural business community members; and

(E) diversity of interest of the nonprofit or nongovernmental organization community members.

(2) Members of the board shall include the following:

(A) four members appointed by the governor:

(i) a person with expertise in rural economic development issues;

(ii) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture;

(iii) a person familiar with the agricultural tourism industry; and

(iv) an agricultural lender.

(B) four members appointed by the speaker of the house of representatives:

(i) a person who produces an agricultural commodity other than dairy products;

(ii) a person who creates a value-added product using ingredients substantially produced on Vermont farms;

(iii) a person with expertise in sales and marketing; and

(iv) a person representing the feed, seed, fertilizer, or equipment enterprises.

(C) four members appointed by the committee on committees of the senate:

(i) a representative of Vermont's dairy industry who is also a dairy farmer;

(ii) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;

(iii) a representative from a Vermont agricultural advocacy organization; and

(iv) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture.

(3) The secretary of agriculture, food and markets shall serve the board as a member ex officio. The secretary shall attend meetings and provide staff support from the agency of agriculture, food and markets, but shall not have the right to vote.

(4) The secretary of commerce and community development shall serve as a member ex officio. The secretary shall attend meetings, but shall not have the right to vote.

(g) Governance.

(1) The board shall adopt rules of procedure not inconsistent with this section before conducting any further business.

(2) Unless a higher threshold is established by the board's rules, seven members of the board shall constitute a quorum, and an action of the board shall be taken by a majority of those members present and voting.

(3)(A) The board shall be led by a chair who shall be elected by the board from its membership at the first meeting.

(B) The chair shall serve for the duration of his or her member term, until his or her earlier resignation, or until his or her unanimous removal by the governor, the speaker of the house, and the president pro tempore of the senate.

(C) A chair may be reappointed, provided that no individual may serve more than two consecutive terms as chair.

(4) Each member of the board shall serve a three-year term, except:

(A) one of the four members initially appointed by the governor, one of the four members initially appointed by the speaker, and one of the four members initially appointed by the committee on committees shall serve an initial term of two years; and

(B) one of the four members initially appointed by the governor, one of the four members initially appointed by the speaker, and one of the four members initially appointed by the committee on committees shall serve an initial term of one year.

(5) Any vacancy occurring among the members shall be filled by the respective appointing authority pursuant to this subsection, and shall be filled for the balance of the unexpired term. A member may be reappointed, provided that no individual may serve more than two consecutive three-year terms.

(h) Compensation. Members who are not state employees or whose membership is not supported by their employer or association may receive per diem and reimbursement for travel to the extent funding is available.

* * * livestock care standards advisory council * * *

Sec. 5. 6 V.S.A. chapter 64 is added to read:

CHAPTER 64. LIVESTOCK CARE STANDARDS

ADVISORY COUNCIL

§ 791. DEFINITIONS

As used in this chapter:

(1) "Agency" means the agency of agriculture, food and markets.

(2) "Council" means the livestock care standards advisory council.

(3) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, fallow deer, American bison, poultry, and any other animal that can or may be used in and for the preparation of meat, fiber, or poultry products.

(4) "Secretary" means the secretary of agriculture, food and markets.

§ 792. ESTABLISHMENT OF LIVESTOCK CARE STANDARDS

ADVISORY COUNCIL

(a) There is established a livestock care standards advisory council for the purposes of evaluating the laws of the state and of providing policy recommendations regarding the care, handling, and well-being of livestock in the state. The livestock care standards advisory council shall be composed of the following members, all of whom shall be residents of Vermont:

(1) The secretary of agriculture, food and markets, who shall serve as the chair of the council.

(2) The state veterinarian.

(3) The following seven members appointed by the governor:

(A) A person with knowledge of food safety and food safety regulation in the state.

(B) Two persons from statewide organizations that represent farmers.

(C) A Vermont licensed livestock or poultry veterinarian.

(D) A representative of an agricultural department of a Vermont college or university.

(E) A representative of the Vermont slaughter industry.

(F) A representative of the Vermont livestock dealer, hauler, or auction industry.

(4) The following two members appointed by the committee on committees:

(A) A producer of species other than bovidae.

(B) An operator of a medium farm or large farm permitted by the agency.

(5) The following two members appointed by the speaker of the house:

(A) An operator of a small Vermont dairy farm.

(B) A representative of a local humane society or organization from Vermont registered with the agency and organized under state law.

(b) Members of the board shall be appointed for staggered terms of three years. Except for the chair, the state veterinarian, and the representative of the agricultural department of a Vermont college, no member of the council may serve for more than six consecutive years. Seven members of the council shall constitute a quorum.

(c) With the concurrence of the chair, the council may use the services and staff of the agency in the performance of its duties.

(d) Members who are not state employees or whose membership is not supported by their employer or association may receive per diem and reimbursement for travel to the extent funding is available.

§ 793. POWERS AND DUTIES OF LIVESTOCK CARE STANDARDS

ADVISORY COUNCIL

(a) The council shall:

(1) Review and evaluate the laws and rules of the state applicable to the care and handling of livestock. In conducting the evaluation required by this section, the council shall consider the following:

(A) the overall health and welfare of livestock species;

(B) agricultural best management practices;

(C) biosecurity and disease prevention;

(D) animal morbidity and mortality data;

(E) food safety practices; and

(F) the protection of local and affordable food supplies for consumers.

(2) Submit policy recommendations to the secretary on any of the subject matter set forth under subdivision (1) of this subsection. A copy of the policy recommendations submitted to the secretary shall be provided to the house and senate committees on agriculture. Recommendations may be in the form of proposed legislation.

(3) Meet at least annually and at such other times as the chair determines to be necessary.

(4) Submit minutes of the council annually, on or before January 15, to the house and senate committees on agriculture.

(b) The council may engage in education and outreach activities related to the laws and regulations for the care and handling of livestock. The council may accept funds from public or private sources in compliance with 32 V.S.A. § 5.

Sec. 6. EFFECTIVE DATES

(a) Secs. 1, 2, 3, and 4 of this act shall take effect on July 1, 2010.

(b) Sec. 5 shall take effect upon passage.

and that the title of the bill be amended to read: “An act relating to miscellaneous agriculture”

(Committee vote: 11-0-0)

(For text see Senate Journal 3/23/10)

J.R.S. 54

Joint resolution related to the payment of dairy hauling costs.

Rep. Ainsworth of Royalton, for the Committee on **Agriculture**, recommends the House propose to the Senate to amend the resolution by striking all after the title and inserting in lieu thereof the following:

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

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

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

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

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

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

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

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

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

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

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

Resolved by the Senate and House of Representatives:

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

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

(Committee Vote: 11-0-0)

(For Text of Senate Resolution see House Journal 3/24/10 Page 642)

Senate Proposal of Amendment

H. 524

An act relating to interference with or cruelty to a guide dog

The Senate proposes to the House to amend the bill 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, with visible identification of its status, 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) a verbal or otherwise communicated warning regarding the behavior of another person and a request that the person stop the behavior; and

(B) a written confirmation submitted to the local law enforcement agency, either by the owner of the guide dog or another person on his or her behalf, which shall include a statement that the warning and request was given and the person’s telephone number.

(b) No person shall recklessly injure or cause the death of a guide dog, or recklessly 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 recklessly 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 recklessly interfere with the use of a guide dog, or

recklessly 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) A violation of subsection (d) of this section shall constitute notice as defined in subdivision (a)(3) of this section.

(f) 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(d), relating to interference with a guide dog.

Sec. 3. 20 V.S.A. § 3621 is amended to read:

§ 3621. ~~ISSUANCE OF WARRANT TO IMPOUND, DESTROY;~~
COMPLAINT

(a) The legislative body of a municipality may at any time issue a warrant to one or more police officers or constables, ~~or~~ pound keepers, or elected or appointed animal control officers, directing them to proceed forthwith to ~~destroy in a humane way or cause to be destroyed in a humane way~~ impound all dogs or wolf-hybrids within the town or city not licensed according to the

provisions of this subchapter, except as exempted by section 3587 of this title, and to enter a complaint against the owners or keepers thereof. A dog or wolf-hybrid impounded by a municipality under this section may be transferred to an animal shelter or rescue organization for the purpose of finding an adoptive home for the dog or wolf-hybrid. If the dog or wolf-hybrid cannot be placed in an adoptive home or transferred to a humane society or rescue organization within ten days, or a greater number of days established by the municipality, the dog or wolf-hybrid may be destroyed in a humane way. The municipality shall not be liable for expenses associated with keeping the dog or wolf-hybrid at the animal shelter or rescue organization beyond the established number of days.

(b) A municipality may waive the license fee for the current year upon a showing of current vaccinations and financial hardship. In the event of waiver due to financial hardship, the state shall not receive its portion of a dog license fee.

Sec. 4. 13 V.S.A. § 351(4) is amended to read:

(4) “Humane officer” or “officer” means any law enforcement officer as defined in 23 V.S.A. § 4(11), auxiliary state police officers, deputy game wardens, humane society officer, animal control officer elected or appointed by the legislative body of a municipality, employee or agent, local board of health officer or agent, or any officer authorized to serve criminal process.

Sec. 5. FINDINGS

The general assembly finds that:

(1) Cebus appella monkeys, commonly known as capuchin monkeys, are used, when highly trained, by the group Helping Hands: Monkey Helpers for the Disabled, a national nonprofit based in Boston, to serve people who are paralyzed, suffer from multiple sclerosis, are quadriplegic, or have other severe spinal cord injuries or mobility impairments by providing assistance with daily activities.

(2) By breeding these monkeys in captivity, raising, and specially training these monkeys to act as live-in companions over the course of 20–30 years, these groups provide independence and companionship to the people they help.

(3) Many states allow capuchin monkeys to be imported, by permit, for purposes of this service. States that have laws exempting the monkeys from their wild animal importation ban include Georgia and California.

(4) According to Helping Hands: Monkey Helpers for the Disabled, their monkeys reside in a closed colony under tight security in a specialized

facility in the Boston area. The monkeys do not have exposure to other non-colony primates. The monkeys receive thorough and comprehensive veterinary care while at the training center and after placement, including regular testing for tuberculosis and intestinal parasites. No recipients or care giver has been injured or contracted an infectious disease from these monkeys.

(5) Helping Hands: Monkey Helpers for the Disabled's monkeys are New World primates which originate in South America. All monkeys are bred specifically for the program and none are taken from the wild. The monkeys are not infected with the well-known pathogens Herpes B or SIV, which are carried exclusively by Asian and African (Old World) primates. The capuchin monkeys are significantly smaller and more docile than Old World primates.

Sec. 6. PILOT PROGRAM FOR IMPORT OF ASSISTANCE ANIMALS; CAPUCHIN MONKEYS

(a) A pilot program, for importing highly trained Cebus appella monkeys into Vermont, is established for the purpose of providing animals for assistance of persons with a permanent disability or disease.

(b) The commissioner shall issue a permit under 10 V.S.A. § 4709 to two different Vermont residents for the import into the state of an animal in the genus Cebus appella (capuchin monkeys), provided that the applicant for the permit establishes that:

(1) the applicant has a permanent disability or disease which interferes with the person's ability to perform one or more routine daily living activities;

(2) the animal for which the permit is to be issued has been trained to assist the person in performing his or her daily living activities;

(3) the animal will be humanely treated and will not present a threat to public health or safety;

(4) the animal for which the permit is sought is the only wild animal to be possessed by that person;

(5) the applicant does not have a history of animal cruelty under chapter 8 of Title 13;

(6) the animal is being provided by a nonprofit charity or organization dedicated to providing animals for assistance of persons with permanent disability or disease; and

(7) the applicant provides an official health certificate from a veterinarian licensed in the state of the animal's origin certifying that the animal is free of visible signs of infections or contagious or communicable disease.

(c) An animal imported under a permit issued under this section shall:

(1) be treated humanely; and

(2) be kept only in the residence of the permittee except as necessary for veterinary services.

(d) When transported into the state, an animal imported under a permit issued under this section shall be transported in a U.S. Department of Agriculture-approved animal carrier.

(e) When an animal imported under a permit issued under this section is no longer in service to the applicant, the animal shall be returned within seven days of the end of service to the nonprofit charity or organization that provided the animal.

(f) Report. On or before January 15, 2014, the commissioner shall report to the senate committee on judiciary on all aspects of the pilot program's implementation, including public health and safety concerns, and on recommendations for legislative proposals or permitting processes, if any.

Sec. 7. EFFECTIVE DATE

This act shall take effect upon passage.

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, warrants to impound a dog or wolf-hybrid, and the definition of 'humane officer'"

(For text see House Journal 2/19/10)

H. 790

An act relating to capital construction and state bonding

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

* * * Capital Appropriations * * *

Sec. 1. STATE BUILDINGS

The following sums are appropriated in total to the department of buildings and general services, and the commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the chairs of the senate committee on institutions and the house committee on corrections and institutions are notified before that action is taken. The individual allocations in this section are estimates only.

(1) Statewide, asbestos and lead abatement: 300,000

<u>(2) Statewide, Americans with Disabilities Act (ADA):</u>	<u>100,000</u>
<u>(3) Statewide, building reuse and planning:</u>	<u>125,000</u>
<u>(4) Statewide, contingency:</u>	<u>500,000</u>
<u>(5) Statewide elevator repairs and upgrades:</u>	<u>350,000</u>
<u>(6) Statewide, major maintenance:</u>	<u>8,003,826</u>
<u>(7) Statewide, major maintenance, VT information centers:</u>	<u>100,000</u>
<u>(8) Statewide: BGS engineering and architectural project costs:</u>	<u>2,465,785</u>
<u>(9) Statewide physical security enhancements:</u>	<u>100,000</u>
<u>(10) Montpelier, 116 State St., restore building envelope:</u>	<u>750,000</u>
<u>(11) Montpelier, 133 State St., infrastructure repair:</u>	<u>1,250,000</u>
<u>(12) Montpelier, 120 State St., replace heating system</u>	<u>750,000</u>
<u>(13) Waterbury, steamline extension:</u>	<u>700,000</u>
<u>(14) Waterbury, state office complex fire alarm panels and door holders:</u>	<u>250,000</u>
<u>(15) Springfield, state office building, HVAC upgrade:</u>	<u>500,000</u>
<u>(16) Bennington, courthouse and state office building:</u>	<u>6,958,340</u>
<u>(17) Burlington, 32 Cherry St., HVAC upgrades:</u>	<u>500,000</u>
<u>(18) Burlington, 108 Cherry St., HVAC upgrades. The commissioner may reallocate funds between this subdivision and subdivision (17) of this section as the commissioner finds to be in the best interests of the state:</u>	<u>500,000</u>
<u>(19) Bennington, state office building, geothermal energy project:</u>	<u>2,000,000</u>
<u>(20) Montpelier, rehabilitation of 128 State Street for the secretary of state:</u>	<u>250,000</u>
<u>(21) Montpelier, state house, renovations to restore room 41 for a house committee room and to return the Ethan Allen room for use as a conference room for general use. Any remaining funds shall be used to renovate room 33:</u>	<u>25,000</u>
<u>Total Appropriation – Section 1</u>	<u>\$26,477,951</u>

Sec. 2. ADMINISTRATION; VERMONT TELECOMMUNICATIONS AUTHORITY; VERMONT CENTER FOR GEOGRAPHIC INFORMATION

(a) The sum of \$100,000 is appropriated to the department of taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping.

(b) The sum of \$5,000,000 is appropriated to the Vermont telecommunications authority (VTA) to build infrastructure to meet the cellular and broadband needs of unserved Vermonters. To the extent possible, the VTA shall use the funds to leverage drawdown of ARRA funds and to build infrastructure that can be used as a revenue stream to enable use of up to \$40,000,000 in moral obligation bonding allocated to the VTA. These funds shall be spent in accordance with the provisions of Sec. 4 and Sec. 11 of No. 78 of the Acts of the 2009 Adj. Sess. (2010).

Total Appropriation – Section 2 \$5,100,000

Sec. 3. HUMAN SERVICES

(a) The following sums are appropriated in total to the department of buildings and general services for the agency of human services for the projects described in this section.

(1) Health laboratory design. Site acquisition, permitting, and construction documents for co-location of department of health laboratory with the UVM Colchester research facility: 4,700,000

(2) Vermont state hospital, ongoing safety renovations: 100,000

(3) Corrections, continuation of suicide abatement project: 100,000

(4) Corrections, security upgrades: 200,000

(5) Corrections, grease trap for the Chittenden regional correctional facility: 335,000

(b) The sum of \$10,000 is appropriated to the department of corrections for the study conducted pursuant to Sec. 31 of this act.

Total Appropriation – Section 3 \$5,445,000

Sec. 4. JUDICIARY

The sum of \$750,000 is appropriated to the department of buildings and general services to design and replace the electric boiler and upgrade to a solar energy or biomass system in the Barre district court and office building.

Total Appropriation – Section 4 \$750,000

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in total to the department of

buildings and general services for the agency of commerce and community development for the following projects:

(1) Major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services: 250,000

(2) Plymouth Visitors' Center, exhibits and furnishings: 250,000

(b) The following sums are appropriated in total to the agency of commerce and community development for the following projects:

(1) Underwater preserves: 50,000

(2) Placement and replacement of roadside historic site markers: 15,000

Total Appropriation – Section 5 \$565,000

Sec. 6. BUILDING COMMUNITIES GRANTS

The following sums are appropriated for building communities grants established in chapter 137 of Title 24:

(1) To the agency of commerce and community development, division for historic preservation, for the historic preservation grant program: 180,000

(2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program: 180,000

(3) To the Vermont council on the arts for the cultural facilities grant program: 180,000

(4) To the department of buildings and general services for the recreational facilities grant program: 180,000

(5) To the department of buildings and general services for the human services and educational facilities competitive grant program: 180,000

(6) For the agricultural fairs capital projects competitive grant program. No single entity shall be awarded more than ten percent of this appropriation: 180,000

Total Appropriation – Section 6 \$1,080,000

Sec. 7. EDUCATION

The following is appropriated in total to the department of education for:

(1) State aid for emergency school construction projects pursuant to 16 V.S.A. § 3448(a)(3)(A): 600,000

(2) Emergency shelters in schools: 44,889

(3) The Burlington International airport to continue the process of planning and designing a new aviation technical training center: 150,000

(4) Alternate energy projects pursuant to 16 V.S.A. § 3448(a)(7)(B) which were prioritized for funding by the state board of education for fiscal year 2011. Each project shall receive an equal percentage of the amount owed by the state: 1,157,676

(5) Remaining state aid for school construction projects pursuant to 16 V.S.A. § 3448 which were prioritized for funding by the state board of education for fiscal year 2011, excluding asset renewal projects. Each project shall receive an equal percentage of the amount owed by the state: 5,197,435

Total Appropriation – Section 7 \$7,150,000

Sec. 8. AUSTINE SCHOOL

The sum of \$540,104 is appropriated to the department of buildings and general services for the renovation of Holton Hall at the Austine School.

Total Appropriation – Section 8 \$540,104

Sec. 9. UNIVERSITY OF VERMONT

The sum of \$2,000,000 is appropriated to the University of Vermont for construction, renovation, and maintenance.

Total Appropriation – Section 9 \$2,000,000

Sec. 10. VERMONT STATE COLLEGES

The sum of \$2,000,000 is appropriated to the Vermont State Colleges for major facility maintenance.

Total Appropriation – Section 10 \$2,000,000

Sec. 11. VERMONT INTERACTIVE TELEVISION

The sum of \$290,085 is appropriated to Vermont Interactive Television to purchase equipment, including video upgrades and monitor replacement.

Total Appropriation – Section 11 \$290,085

Sec. 12. NATURAL RESOURCES

(a) The following is appropriated in total to the agency of natural resources for water pollution control projects:

(1) For grants to municipalities pursuant to chapter 55 of Title 10 (aid to municipalities for water supply, pollution abatement, and sewer separations) and chapter 120 of Title 24 (special environmental revolving fund), the Springfield loan conversion, and administrative support under chapter 120 of

Title 24. Of this amount and the amount in subdivision (2) of this subsection, up to \$50,000 may be used to provide municipalities with grants or loans for a study of the feasibility and planning of site-appropriate potable water supply and wastewater systems, including innovative decentralized systems, for historic village and existing settled areas. Systems shall be designed to comply with the adopted municipal plan. The agency of natural resources shall have the discretion to determine eligibility for and amounts of funds provided to municipalities for feasibility studies and planning, and shall report to the senate committees on institutions and on natural resources and energy, and the house committees on corrections and institutions and on fish, wildlife and water resources on or before January 15, 2011, regarding how the municipal grant program is working, the demand for the grants, what projects were funded, and anticipated future construction costs of those projects: 2,375,400

(2) For combined sewer overflow projects receiving ARRA funding:

<u>(A) Burlington, Gazo Avenue:</u>	<u>100,000</u>
<u>(B) Burlington, Manhattan Drive:</u>	<u>200,000</u>
<u>(C) Middlebury, pump station work:</u>	<u>450,000</u>
<u>(D) Montpelier, several areas of the city:</u>	<u>138,500</u>
<u>(E) Proctor sewer system rehabilitation:</u>	<u>32,500</u>
<u>(F) Springfield, several areas:</u>	<u>374,000</u>

(3) Interest on short-term borrowing associated with delayed grant funding for the Pownal project: 85,000

(b) The following sum is appropriated to the agency of natural resources for the drinking water state revolving fund. Of this amount, up to \$50,000 may be used to provide municipalities with grants or loans for a study of the feasibility and planning of site-appropriate potable water supply and wastewater systems, including innovative decentralized systems, for historic village and existing settled areas. Systems shall be designed to comply with the adopted municipal plan. The agency of natural resources shall have the discretion to determine eligibility for and amounts of funds provided to municipalities for feasibility studies and planning, and shall report to the senate committees on institutions and on natural resources and energy, and the house committees on corrections and institutions and on fish, wildlife and water resources on or before January 15, 2011, regarding how the municipal grant program is working, the demand for the grants, what projects were funded, and anticipated future construction costs of those projects: 2,175,660

(c) The following sum is appropriated to the agency of natural resources for the clean and clear program for ecosystem restoration and protection. The

agency shall use at least \$250,000 of this appropriation to work with the Vermont youth conservation corps on appropriate ecosystem restoration and protection projects: 1,700,000

(d) The following sum is appropriated to the agency of natural resources for the state's year-three share of the federal match to conduct a three-year study of flood-control measures in the city of Montpelier. However, the state shall not enter into any commitment to pay for construction of flood control improvements without legislative approval: 177,000

(e) The following sums are appropriated to the agency of natural resources for the department of forests, parks and recreation:

(1) rehabilitation of small and large infrastructure in the state forests and parks, including wastewater repairs, upgrades of restrooms and bathhouses, rehabilitation of CCC structures, and road restoration: 2,500,000

(2) energy conservation and alternative energy projects at Vermont state parks: 1,000,000

(f) The following sums are appropriated to the agency of natural resources for department of fish and wildlife projects described in this subsection:

(1) to match federal funding for a lamprey control project: 157,500

(2) Safety improvements at the Salisbury, Bennington, and Bald Hill fish hatcheries: 78,300

(3) Bald Hill fish hatchery, fish production improvements: 120,000

(4) Bald Hill emergency dam repair: 70,000

(5) For the Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure. The association shall enter into an agreement with any private landowner whose pond is upgraded, maintained, or built in whole or in part using state funds. The agreement shall provide for a lease of at least 10 years, with the option for renewal, and for mutually agreeable maintenance, repair, and use of the pond. In addition, the Walleye Association shall report in January 2011 to the house committee on corrections and institutions and the senate committee on institutions on use of the funds appropriated in this subdivision: 25,000

(6) For improvement and expansion of existing fishing accesses: 250,000

Total Appropriation – Section 12 \$12,008,860

Sec. 13. MILITARY

The sum of \$850,000 is appropriated to the department of the military for

maintenance and renovation at state armories. To the extent feasible, these funds shall be used to draw down federal funds.

Total Appropriation – Section 13 \$850,000

Sec. 14. PUBLIC SAFETY

The following is appropriated in total to the department of buildings and general services for the department of public safety for:

(1) Renovations to the public safety headquarters building in Waterbury: 3,215,000

(2) Purchase of equipment for the fire service training center in Pittsford: 100,000

(3) Conversion to narrowband frequencies for SOV two-way radio systems: 45,000

Total Appropriation – Section 14 \$3,360,000

Sec. 15. CRIMINAL JUSTICE TRAINING COUNCIL

The sum of \$1,000,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council to complete improvements and repairs to the firing range in Pittsford.

Total Appropriation – Section 15 \$1,000,000

Sec. 16. AGRICULTURE, FOOD AND MARKETS

The following is appropriated in total to the agency of agriculture, food and markets for the purposes described in this section:

(1) For the best management practice implementation cost share program, to continue to reduce nonpoint source pollution in Vermont. For projects paid from this appropriation, cost share funds may be increased to 90 percent of a project: 1,500,000

(2) For the agricultural buffer program, to install water quality conservation buffers: 175,000

Total Appropriation – Section 16 \$1,675,000

Sec. 17. VERMONT PUBLIC TELEVISION

The sum of \$500,000 is appropriated to Vermont Public Television for the state match for the federally mandated conversion of Vermont Public Television's transmission sites to digital broadcasting format.

Total Appropriation – Section 17 \$500,000

Sec. 18. VERMONT RURAL FIRE PROTECTION

The sum of \$100,000 is appropriated to the department of public safety, division of fire safety for the Vermont rural fire protection task force to continue the dry hydrant program.

Total Appropriation – Section 18 \$100,000

Sec. 19. VERMONT VETERANS' HOME

The following sums are appropriated in total to the department of buildings and general services for the Vermont Veterans' Home for the purposes described in this section:

(1) Relocate and replace the transformer: 150,000

(2) Replace gas lines: 170,000

Total Appropriation – Section 19 \$320,000

Sec. 20. VERMONT CENTER FOR CRIME VICTIM SERVICES

The sum of \$50,000 is appropriated to the Vermont Center for Crime Victim Services for Americans with Disabilities Act improvements at domestic violence shelters. Annually, on or before December 1, the Vermont Center for Crime Victim Services shall file with the commissioner of buildings and general services a report which details the status of the improvements funded in whole or in part by state capital appropriations.

Total Appropriation – Section 20 \$50,000

Sec. 21. VERMONT HISTORICAL SOCIETY

The sum of \$150,000 is appropriated to the department of buildings and general services for a one-to-one matching grant to the Vermont historical society to reduce debt at the Vermont history center in Barre. The department may release the funds to the historical society upon receiving certification that the funds have been matched.

Total Appropriation – Section 21 \$150,000

Sec. 22. HOUSING AND CONSERVATION BOARD

The amount of \$5,000,000 is appropriated to the Vermont housing and conservation board (VHCB) for building and preservation of affordable housing, and for conservation projects. The board shall:

(1) give priority consideration to affordable housing preservation and infill projects in or near downtowns or village centers as well as consider applications to build or renovate housing for elders, supportive housing for persons with disabilities, including chronic mental illness, and individuals and families who might otherwise be homeless;

(2) allocate up to 20 percent of this appropriation for conservation grant awards that will maximize drawdown of federal and private matching funds, particularly federal farmland protection funds allocated to Vermont by the Natural Resources Conservation Service. If less than \$4,000,000 of the state's private activity bond cap is made available to the VHCB for eligible affordable housing investments, VHCB may increase the amount it allocates to conservation grant awards from its capital appropriation, notwithstanding the percentage provided for in this section, provided that VHCB increases its affordable housing investments by the same amount from funds appropriated to VHCB in the FY 2011 Appropriations Act;

(3) allocate \$100,000 of this appropriation for the construction of single room occupancy (SRO) housing for at-risk youth. The board shall give priority to SRO housing that requires as a condition of residency participation in educational, life-skills, and job training and programming and for which rental subsidies will support ongoing operational costs;

(4) leverage federal and private funds to the maximum extent feasible; and

(5) on or before January 15, 2011, report to the senate committee on institutions and the house committee on corrections and institutions on how the funds appropriated in this section were spent or obligated.

Total Appropriation – Section 22 \$5,000,000

* * * Financing this Act * * *

Sec. 23. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

The following sums are reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 of this act:

(1) of proceeds from sale of space in the Emory A. Hebard State Office Building in Newport pursuant to Sec. 37 of No. 62 of the Acts of 1997: 53,478.68

(2) of the amount realized from the sale of land on Swift Street in Burlington pursuant to Sec. 27 of No. 43 of the Acts of 2005: 30,000.00

(3) of the amount appropriated by Sec. 5(a)(1) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Lamoille County courthouse): 61,508.11

(4) of the amount appropriated by Sec. 5(d) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Grand Isle County courthouse): 8,476.40

(5) of the amount realized from a nonrefundable deposit for purchase of land pursuant to Sec. 25(2) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Comfort Hill Road, Vergennes): 3,010.00

- (6) of the amount appropriated for dam inspection and repair at the Southeast State Correctional Facility in Windsor pursuant to Sec. 4(4) of No. 52 of the Acts of 2007: 68,868.00
- (7) of the amount appropriated by Sec. 4(6) of No. 52 of the Acts of 2007 for security at the Chittenden Regional Correctional Facility: 422.49
- (8) of the amount appropriated by Sec. 8(2) of No. 149 of the Acts of the 2001 Adj. Sess. (2002) for a sludge storage facility in Bradford: 42,521.92
- (9) of the amount appropriated by Sec. 11(e)(3) of No. 256 of the Acts of the 1991 Adj. Sess. (1992) for grants and loans for solid waste management facilities: 2,704.23
- (10) of the amount appropriated by Sec. 19(d)(1) of No. 233 of the Acts of the 1993 Adj. Sess. (1994) for municipal grants and loans for landfill closings: 2,000.00
- (11) of the amount appropriated by Sec. 13(b)(4)(B) of No. 62 of the Acts of 1995 for assistance to municipalities for recycling: 25,143.58
- (12) of the amount appropriated by Sec. 19(d)(3) of No. 233 of the Acts of the 1993 Adj. Sess. (1994) for municipal grants and loans for solid waste management facilities: 23,424.00
- (13) of the amount appropriated by Sec. 10(b)(3) of No. 185 of the Acts of the 1995 Adj. Sess. (1996) for municipal assistance for solid waste management facilities: 9,120.46
- (14) of the amount appropriated by Sec. 10(k) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) to purchase mechanical harvesting equipment: 2,479.03
- (15) of the amount appropriated by Sec. 10(d) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for a forest plan for the Green Mountain National Forest: 11,921.57
- (16) of the amount appropriated by Sec. 10(o) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for an engineering study of the state dock in St. Albans: 7,373.00
- (17) of the amount appropriated by Sec. 3(3) of No. 43 of the Acts of 2009 for consideration of how to replace acute intensive psychiatric inpatient services provided at the current Vermont state hospital with services to be provided at the Rutland Regional Medical Center: 250,000.00
- (18) of the amount appropriated by Sec. 10(d) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for forestry planning: 11,922.00

<u>(19) of the amount appropriated by Sec. 12(f)(4) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) for the Salisbury fish station generator:</u>	<u>13,119.00</u>
<u>(20) of the amount appropriated by Sec. 9 of No. 29 of the Acts of 1999 for the Vermont historical society:</u>	<u>29,116.00</u>
<u>(21) of the amount appropriated by Sec. 3(c)(1) of No. 43 of the Acts of 2005 for a dormitory-style work camp:</u>	<u>41,163.00</u>
<u>(22) of the amount appropriated by Sec. 9(a)(1) of No. 43 of the Acts of 2009 for water pollution control:</u>	<u>88,879.00</u>
<u>(23) of the amount appropriated by Sec.12 (a)(1) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) for water pollution control:</u>	<u>431,538.00</u>
<u>(24) of the amount appropriated by Sec 4(f) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) for heating and ventilation system for the Northern State Correctional Facility:</u>	<u>6,196.00</u>
<u>(25) of the amount appropriated by Sec.1(7) of No. 147 of the Acts of 2005 adj. session (2006) for repairs to Vermont Veterans Home Heat Distribution System:</u>	<u>\$7,374.00</u>
<u>(26) of the amount appropriated by Sec. 23 of No. 148 of the Acts of the 1999 Adj. Sess. (2000) for non-point pollution reduction:</u>	<u>25,947.37</u>
<u>(27) of the amount appropriated by Sec. 5 of No.61 of the Acts of 2001 for non-point source pollution reduction:</u>	<u>87,558.69</u>
<u>(28) of the amount appropriated by Sec. 13 of No. 149 of the Acts of the 2001 Adj. Sess. (2002) for non-point pollution reduction:</u>	<u>13,313.08</u>
<u>(29) of the amount appropriated by Sec.14(a) of No. 63 of the Acts of 2003 for non-point source pollution reduction:</u>	<u>57,885.15</u>
<u>(30) of the amount appropriated by Sec.15 of No.121 of the Acts of the 2003 Adj. Sess. (2004) for non-point source pollution reduction:</u>	<u>170,537.39</u>
<u>Total Reallocations and Transfers – Section 23</u>	<u>\$1,587,000.15</u>

Sec. 24. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The state treasurer is authorized to issue general obligation bonds in the amount of \$71,825,000 for the purpose of funding the appropriations of this act. The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for

which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The sum of \$2,000,000 is transferred from the Vermont clean energy development fund established in 10 V.S.A. § 6523 to the department of buildings and general services for the purpose of funding statewide energy efficiencies and renewable projects pursuant to Sec. 1(19) of this act.

(c) The sum of \$1,000,000 is transferred from the Vermont clean energy development fund established in 10 V.S.A. § 6523 to the agency of natural resources for the purpose of energy conservation and alternative energy projects at state parks pursuant to Sec. 11(e)(2) of this act.

Total Revenues – Section 24

\$74,825,000

* * * Buildings and General Services * * *

Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) Pursuant to 29 V.S.A. § 152(3), the commissioner of buildings and general services is authorized to purchase the land and existing building located at 245 South Park Drive in Colchester.

(b) Notwithstanding 10 V.S.A. § 6524, \$2,000,000 of the American Recovery and Reinvestment funds described in 10 V.S.A. § 6523(h) shall be under the authority of the commissioner of buildings and general services and shall be for statewide energy efficiencies and renewable projects pursuant to Sec. 1(19) of this act.

(c) Notwithstanding 10 V.S.A. § 6524, \$1,000,000 of the American Recovery and Reinvestment funds described in 10 V.S.A. § 6523(h) shall be under the authority of the secretary of natural resources and shall be for energy conservation and alternative energy projects at state parks pursuant to Sec. 12(e)(2) of this act.

(d) Notwithstanding 29 V.S.A. §§ 165 and 166, the commissioner of buildings and general services is authorized to sell to the city of Rutland the former armory building at 62 Pierpoint Avenue in Rutland at the 2010 appraised value. The sale may be a lease purchase agreement that would enable the city to lease the building for up to ten years and that would grant the city the right to purchase the property any time during the ten-year lease for fair market value with all lease payments and improvements to the property, at depreciated value, made by the city to the state being deducted from the purchase price. The lease-to-own agreement shall include a provision that the city shall pay all expenses, including major maintenance. If the commissioner is unable to negotiate a mutually acceptable agreement with the city of Rutland, the commissioner is authorized to sell the building pursuant to 29 V.S.A. § 166. Proceeds of the lease purchase under this subsection shall be

paid into a capital fund account pursuant to 29 V.S.A. § 166(d).

(e) Following consultation with the state advisory council on historic preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans.

Sec. 26. USE AND DEVELOPMENT OF STATE FACILITIES AND LANDS

(a) The commissioner of buildings and general services shall work with the town of Windsor to develop a plan for use of state lands adjacent to the southeast state correctional facility in Windsor, and shall consult with the commissioner of forests parks and recreation, the secretary of agriculture, food and markets, the commissioner of corrections, local wildlife conservation groups, and trails and recreation organizations as they develop the plan. The plan shall describe a mixed use of the area which will result in benefits to the town of Windsor, the region, and the state on a sustainable basis. Proposed uses shall be based on the natural attributes of the area so that for example, agricultural uses may be proposed in sections of prime agricultural soils, forestry uses may be proposed in areas suitable for sustainable tree growth, wildlife habitat is maintained and improved especially for Vermont species of greatest conservation need, and housing may be proposed to be clustered near recreational uses. On or before January 15, 2011, the commissioner of buildings and general services and the town of Windsor shall jointly present the plan to the house and senate committees on natural resources and energy, the senate committee on institutions and the house committee on corrections and institutions.

(b) The commissioner of buildings and general services shall work with the city of Montpelier to determine whether the state's steam plant could generate electricity and provide heat and water to both state buildings and a portion of the city. If needed, the commissioner is authorized to sign a letter of intent which would support the city of Montpelier's commencement of necessary environmental reviews, if appropriate. However, any letter of intent shall be approved by the chairs of the senate committee on institutions and the house committee on corrections and institutions prior to signature, and no lease transfer or construction shall take place without the authorization of the general assembly.

(c) It is the intent of the general assembly that, as appropriate and feasible, all programs and services of the secretary of state shall be consolidated within the capital complex.

(d) The commissioner of buildings and general services may use up to \$400,000 of unexpended FY10 funds allocated for major maintenance and \$200,000 of funds allocated for major maintenance in FY11 for:

(1) repair of the generator and switchgear of the cogeneration system at the state correctional facility in Springfield; and

(2) up to \$ 200,000 for improvements and upgrades to the municipal water system serving the Springfield correctional facility, provided that the town of Springfield contributes an equal amount of funds for the upgrades and provided that the town of Springfield agrees to accept ownership of the system in accordance with provision #9 of the correctional facility agreement executed between the state and the town on March 30, 1999. However, funds shall be expended under this subdivision only for the remainder of the project after the town has received federal funds for upgrade of the water system.

(e) Notwithstanding 29 V.S.A. § 166, the secretary of the agency of commerce and community development is authorized to enter into a lease with the Calvin Coolidge Memorial Foundation for a portion of the Calvin Coolidge state historic site in Plymouth Notch for use as an educational center for a term of years he or she deems to be in the best interests of the state.

Sec. 27. Sec. 1(8) and (11) of No. 43 of the Acts of 2009 are amended to read:

(8) BGS engineering and architectural project costs. It is the intent of the general assembly that labor and operating costs, such as engineering and architectural costs, shall not be paid for from bonded funds in the future:

1,950,000 2,408,340

(11) Bennington, 200 Veterans Drive. Demolish and design the rebuilding of the older section of the state office building, ~~excluding and a portion of the courthouse space; renovate the newer section of the building to house programs and services previously located in the building to address water infiltration and indoor air quality issues, consolidate all courthouse functions in an expanded building, enhance energy opportunities, and allow geothermal equipment to be installed under the new space;~~ and build four holding cells, a sally port, and two additional courtrooms without jury facilities for a total of four courtrooms:

8,000,000 7,541,660

Sec. 28. 3 V.S.A. § 2291(e) amended to read:

(e) The commissioner of buildings and general services shall develop life cycle cost guidelines for use in all state buildings. These guidelines shall require all new construction and major renovations to meet or exceed the document titled ~~“The Vermont Guidelines for Energy Efficient Commercial Construction” as published in its most recent edition by the department of~~

~~public service as that document may be amended~~ current “Vermont Commercial Building Energy Standards.” Where practicable the goal shall be attaining an EPA ENERGY STAR[®] rating of at least seventy-five.

* * * Building Communities Grants * * *

Sec. 29. 24 V.S.A. § 5603 is amended to read:

§ 5603. HISTORIC BARN PRESERVATION GRANT PROGRAM

There is established an historic barns preservation grant program which shall be administered by the division for historic preservation in the agency of commerce and community development. Grants shall be made available to ~~municipalities and nonprofit tax exempt organizations~~ barn owners on a one-for-one matching basis for restoring historic barns.

* * * Commerce and Community Development * * *

Sec. 30. 23 V.S.A. § 3311(d) is amended to read:

(d) Underwater historic preserve area. A vessel shall not be operated in an “underwater historic preserve area” except as provided in this subsection. These areas are historic and archaeological sites located on the bottomlands of the waters of the state and are designated as public recreational areas. The division for historic preservation may designate underwater historic preserve areas and they shall be identified by a floating special purpose yellow buoy marked “State of Vermont Underwater Historic Preserve.” The following requirements shall govern the operation of vessels at the preserves:

(1) a vessel may secure to a yellow buoy only when diving or remotely operated vehicle diving at the preserve. In this subsection, “remotely operated vehicle diving” means using an unstaffed underwater robot to view a preserve site;

(2) ~~only~~ vessels 35 feet in length or less, ~~and only those engaged in diving,~~ may secure to a buoy;

(3) vessels 50 feet in length or less and piloted by a U.S. Coast Guard-licensed captain may secure to a buoy for the purpose of remotely operated vehicle diving;

(4) a divers-down flag shall be displayed whenever a vessel is secured to a buoy;

~~(4)~~(5) on sites with multiple buoys, one vessel may be secured to each buoy;

~~(5)~~(6) when a vessel is secured to the buoy, all other vessels shall remain at least 200 feet from the buoy; and

~~(6)~~(7) anchoring is not permitted within 200 feet of the buoy.

Sec. 31. 10 V.S.A. § 6654(f) is amended to read:

(f) The Vermont economic development authority, VEDA, is authorized to make loans on behalf of the state pursuant to this section. Annually, the secretary of commerce and community development with the approval of the secretary of natural resources in consultation with the VEDA manager shall determine an amount from the brownfield revitalization program that will be available to VEDA for loans. Proceeds from repayment of loans shall be deposited in the brownfield revitalization fund and shall be available for future grants and loans under this section. Loans under this subsection shall be issued and administered by VEDA, provided:

* * *

(2) A loan to an applicant for characterization or assessment may not exceed \$250,000.00 ~~and may be used for characterization, assessment, or remediation.~~ Remediation loans shall not be capped. All loans shall be subject to all the following conditions:

* * *

* * * Vermont Telecommunications Authority * * *

Sec. 32. VERMONT TELECOMMUNICATIONS AUTHORITY; USE OF PRIVATE ACTIVITY BONDING AUTHORITY; REPORT

On or before January 15, 2011, the executive director of the Vermont telecommunications authority shall report to the senate committee on institutions, the senate committee on finance, and the house committee on corrections and institutions on revenues realized from infrastructure built with general obligation bond funds, private activity bonds issued pursuant to 30 V.S.A. § 8064, revenues realized from infrastructure built with private activity bonds, and what is needed to maximize use of the authority's private activity bonding authority.

* * * Natural Resources * * *

Sec. 33. 10 V.S.A. § 1974(4), (5), and (6) are added to read:

(4) The installation or use of a water treatment system for a potable water supply where the treatment system is designed to:

(A) reduce or eliminate water hardness;

(B) reduce or eliminate properties or constituents on the list of secondary standards in the Vermont water supply rules;

(C) reduce or eliminate radon, lead, arsenic, or a combination of

these; or

(D) eliminate bacteria or pathogenic organisms, provided that the treatment system treats all of the water used for drinking, washing, bathing, the preparation of food, and laundering.

(5) The installation or use of a water treatment device, provided that the installation or use is overseen by the secretary as a part of a response action due to contamination or the threat of contamination of a potable water supply by a release or threat of release of a hazardous material or any other source of contamination.

(6) The increase in flow to an existing wastewater system as a result of the use of an exempt water treatment system under subdivisions (4) and (5) of this section.

Sec. 34. CLEAN WATER STATE REVOLVING FUND; INTENDED USE PLAN; AMENDMENTS

(a) The agency of natural resources has written and submitted a clean water intended use plan for submission to the U.S. Environmental Protection Agency (EPA) as part of its annual application for a Clean Water Capitalization Grant. Upon acceptance by the EPA, Vermont expects to be awarded \$12,905,000 which it will distribute through the clean water state revolving fund. The intended use plan describes how these funds will be distributed to municipal projects.

(b) If any of the municipalities allocated a share of the federal funds in the intended use plan are unable to use the funds due to unanticipated delays, or is eligible for other funds which could be used for the project instead of the federal funds, the agency is hereby directed to submit a plan amendment which will enable it to reallocate those funds to a project on the priority list which will cost more than \$4 million, does not readily qualify for other sources of funding, serves over 2,500 users, is in the economic growth center of the region, and will result in jobs and economic growth.

Sec. 35. POLLUTION CONTROL REVOLVING LOAN FUND; DRINKING WATER REVOLVING FUND; LOAN FORGIVENESS

(a) Upon awarding a loan from the Vermont environmental protection agency pollution control revolving fund or the Vermont environmental protection agency drinking water state revolving fund, the secretary of the agency of natural resources may forgive up to 50 percent of the loan if the award is made from funds appropriated from the Federal Fiscal Year 2010 Clean Water State Revolving Fund or Drinking Water State Revolving Fund Grants (FFY2010 CWSRF and FFY2010 DWSRF).

(b) Notwithstanding 10 V.S.A. § 1624a(b), the assistance provided by a loan from the Vermont environmental protection agency pollution control revolving fund made from FFY2010 CWSRF funds may be for up to 100 percent of the eligible project cost.

(c) The secretary shall establish standards, policies, and procedures as necessary for implementing the provisions of this section, for allocating the funds among projects, and for revising standard priority lists in order to comply with requirements associated with the federal FY2010 CWSRF and DWSRF capitalization grants.

Sec. 36. Sec. 8(a)(3) of No. 149 of the Acts of the 2001 Adj. Sess. (2002) is amended to read:

(3) Dams, maintenance and reconstruction; provided \$35,000 of this appropriation shall be made to supplement the \$55,000 federal Land and Water Conservation Fund grant for Harvey's Lake dam to replace the existing dam with an electronically-controlled rubber bladder dam; and provided ~~\$30,000~~ \$58,591 of this appropriation shall be made to enable engineering and design of repairs to abate the imminent hazard posed by the Curtis Pond dam in Calais, with the further provision that the state shall not be liable for any claims that may arise from the work performed at that dam: 300,000

* * * Vermont State Hospital * * *

Sec. 37. VERMONT STATE HOSPITAL; REPLACEMENT

(a) The department of mental health is directed to continue to develop plans for the replacement of state hospital functions consistent with state public policy and the terms of the conceptual certificate of need, including acute specialized and intensive care inpatient hospital beds and any other incomplete elements of the plan.

(b) The department of mental health shall proceed with further inpatient Phase II certificate of need applications only if the general assembly has identified an acceptable financing plan.

(c) The commissioner of buildings and general services and the commissioner of mental health shall continue to plan, design, and work to obtain permits for a secure residential recovery facility in Waterbury. Notwithstanding Sec. 31(b) of No. 43 of the Acts of 2009, simultaneous with the certificate of need process and prior to applying for a local permit for a new appropriately designed 15-bed secure residential program and facility in Waterbury, the commissioners shall further review all potential building sites within the Waterbury complex and shall consult with the Waterbury village and town officials, and report on the final site to the chairs and vice chairs of

the senate committee on institutions and house committee on corrections and institutions on or before July 1, 2010. The facility design shall incorporate the components necessary for the facility to function as a freestanding program that does not rely on support space currently serving patient needs in the existing Vermont state hospital.

(d) The commissioner of mental health shall plan for the replacement of Vermont state hospital inpatient beds in consultation with the following: Brattleboro Retreat, Rutland Regional Medical Center, and Dartmouth Medical School. The commissioner of buildings and general services shall engage in the design of the required space. The commissioner of buildings and general services shall make funds necessary for this work available from funds allocated in the past for planning and replacement of beds at a secure residential facility.

Sec. 38. Sec. 31(d) of No. 43 of the Acts of 2009 is amended to read:

(d) DAIL shall amend by rule pursuant to chapter 25 of Title 3 the licensing requirements for ~~therapeutic community residences~~ residential care homes to provide for the operation of secure residential recovery programs.

* * * Education * * *

Sec. 39. 16 V.S.A. § 3448(a)(7)(C) is amended to read:

(C) The amount of an award shall be 50 percent of the approved cost of a project or applicable portion of a project which results in consolidation of two or more school buildings and which will serve the educational needs of students in a more cost-effective and educationally appropriate manner as compared to individual projects constructed separately. A decision of the commissioner as to eligibility for aid under this subdivision (C) shall be final. This subdivision (C) shall apply only to a project which has received preliminary approval by June 30, ~~2010~~ 2011.

Sec. 40. SALE OR LEASE OF THE JOHN H. BOYLAN STATE AIRPORT

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

(b) The state shall retain an ownership interest in the area which may be used as a helipad on the property that is accessible for authorized uses.

(c) The property shall be conveyed subject to a condition that the property will revert to the state of Vermont on terms and conditions negotiated by the parties.

(d) Any purchaser or lessor shall agree to accept assignment of the state of Vermont's interest in current leases on the property.

(e) In the event that the town of Brighton or Vermont Biomass Energy (or its assignee) does not purchase or lease the entire parcel, the secretary of transportation is authorized to sell the residence and up to an acre of associated land on the airport property to the highest bidder, provided that the residence and land shall not be sold for less than fair market value.

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

Sec. 41. 30 V.S.A. § 8079 is amended to read:

§ 8079. BROADBAND INFRASTRUCTURE; INVESTMENT

(a) To achieve the goals established in subsection 8060(b) of this title, the authority is authorized to invest in broadband infrastructure or contract with retail providers for the purpose of making services available to at least 10,000 households or businesses in target communities where such services are currently unavailable or to upgrade services in underserved business districts, as determined by the authority. For the purposes of this section, target communities shall not be considered unserved if a broadband provider has a legally binding commitment to provide service to those locations or a provider has received a broadband stimulus grant to provide service to those locations.

(b) To accomplish the purpose of this section, the authority shall publish a request for proposals for ~~any or~~ all of the following options for the purpose of providing broadband coverage to 100 percent of Vermont households and businesses within target communities: (1) the construction of physical broadband infrastructure, to be owned by the authority; (2) initiatives by public-private partnerships or retail vendors; or (3) programs that provide financial incentives to consumers, in the form of rebates for up to 18 months, for example, to ensure that providers have a sufficient number of subscribers. ~~Before publication, a copy of all requests for proposals shall be provided to the senate committee on finance and the house committee on commerce and economic development, and shall be approved by the joint fiscal committee~~ The authority shall select proposals for target communities that best achieve the objective stated in subsection (a) of this section, consistent with the criteria listed in subsections (c) and (d) of this section.

~~(c) Criteria. In developing the criteria which will govern the requests for proposals regarding the expenditure of the appropriations contained in S.288 and H. 790 as enacted in the 2010 legislative session, and to the extent consistent with the objectives set forth in subsection (a) of this section, the authority shall strive to achieve~~ Any request for proposals developed under this section shall include the following requirements:

~~(1) Require the use of current generation infrastructure, such as fiber optic cable where cable is used, or otherwise appropriate, and technology which is considered state of the art by the telecommunications industry. The technology and infrastructure used by a telecommunications provider participating in a project pursuant to this section shall support the delivery of services with download speeds equal to or greater than three megabits per second and upload speeds equal to or greater than two megabits per second.~~

~~(2) Require that any infrastructure~~ Infrastructure owned and leased by the authority shall be available for use by as many telecommunication providers as the technology will permit to avoid the state from establishing a monopoly service territory for one provider.

(d) The authority shall review proposals and award contracts based upon the price, quality of services offered, positive experience with infrastructure maintenance, retail service delivery, and other factors determined to be in the public interest by the authority. In selecting target communities, the authority shall consider to the extent possible:

(1) the proportion of homes and businesses in those communities without access to broadband service and without access to broadband service meeting the minimum technical service characteristic objectives established under section 8077 of this title;

(2) the level of adoption of broadband service by residential and business users within the community;

(3) opportunities to leverage or support other sources of federal, state, or local funding for the expansion or adoption of broadband service;

(4) the number of potential new subscribers in each community and the total level of funding available for the program; and

(5) the geographic location of selected communities and whether new target communities would further the goal of bringing broadband service to all regions of the state.

(6) Pending grant and loan applications for the expansion of broadband service filed with the U.S. Department of Commerce and with the broadband initiatives program under the Rural Utilities Service of the U.S. Department of

Agriculture, which will be awarded no later than October 1, 2010.

(e) To the extent any funds appropriated by the general assembly are rendered unnecessary for the purpose of reaching unserved Vermonters due to a successful application to the broadband initiatives program under the Rural Utilities Service of the U.S. Department of Agriculture, such funds shall be placed in reserve by the authority to be used first to achieve 100-percent coverage pursuant to chapter 91 of Title 30 and, once that is achieved, to then deliver fiber-quality service to Vermont's public facilities, regional business hubs, and anchor businesses and institutions.

(f) Beginning July 1, 2010, the authority may invest up to \$500,000.00 for upgrades in broadband services in underserved business districts, as defined by the authority.

Sec. 42. No. 78 of the Acts of 2010, Sec. 4, subsection (b), is amended to read:

(b) No portion of the appropriation made in subsection (a) of this section shall be encumbered or disbursed until a detailed itemization of the specific manner in which the funds shall be spent is ~~presented to and approved by the joint fiscal committee, after obtaining input from~~ submitted to the senate committee on finance, the senate committee on economic development, housing and general affairs, and the house committee on commerce and economic development.

Sec. 43. REPEALS

The following are repealed:

(1) 32 V.S.A. § 309(d), relating to emergency operation centers.

(2) Sec. 13(b)(2)(B) of No. 148 of the Acts of the 1997 Adj. Sess. (1998), relating to deed covenants on land which may be conveyed by the state of Vermont to Rutland.

Sec. 44. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal 4/2/10)

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?

**Consent Calendar
Concurrent Resolutions**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 333

House concurrent resolution congratulating Kelsey Howard as the Boys & Girls Club 2010 Vermont State Youth of the Year

H.C.R. 334

House concurrent resolution honoring Mario Bevacqua on his two decades of exemplary educational leadership in the Weathersfield School District

H.C.R. 335

House concurrent resolution commemorating the bicentennial of the town of Dover

H.C.R. 336

House concurrent resolution honoring municipal public works departments' employees and designating May 16–22 as Public Works Week in Vermont

H.C.R. 337

House concurrent resolution congratulating the Woodford Elementary School on its bicentennial anniversary

H.C.R. 338

House concurrent resolution congratulating the Association of Africans Living in Vermont, Inc. on its 10th anniversary

H.C.R. 339

House concurrent resolution congratulating the 2010 winning teams of the Jr. Iron Chef Vermont competition

H.C.R. 340

House concurrent resolution recognizing the town of Goshen and the Blueberry Management Area in the Moosalamoo National Recreation Area as the Wild Blueberry Capital of Vermont

H.C.R. 341

House concurrent resolution honoring Molly Ferris for her dedicated peace advocacy, her leadership in theatrical circles, and her outstanding community volunteer work

S.C.R. 49

Senate concurrent resolution honoring former Senator Rita Whalen McCaffrey on her career accomplishments at Dismas of Vermont, Inc