

House Calendar

Tuesday, April 27, 2010

113th DAY OF ADJOURNED SESSION

House Convenes at 10:00 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Unfinished Business of Monday, April 26 2010

Third Reading

S. 165

An act relating to eliminating the statute of limitations for felonies

S. 173

An act relating to technical corrections to the trust laws

S. 268

An act relating to the building bright futures council

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 5/1/2009)

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. 278

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

Rep. Bissonnette 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)

(No Senate Amendments)

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 regionally 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 ~~commissioners~~ 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, or his or her designee, 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, or his or her designee, 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) the governor initially shall appoint one member to a one-year term, one member to a two-year term, and two members to a three-year term;

(B) the speaker of the house initially shall appoint two members to a one-year term, one member to a two-year term, and one member to a three-year term; and

(C) the committee on committees initially shall appoint one member to a one-year term, two members to a two-year term, and one member to a three-year term.

(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: 8-0-3)

(No Senate Amendments)

J.R.S. 54

Joint resolution related to the payment of dairy hauling costs

Rep. Ainsworth of Royalton, 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:

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 see House Journal 3/24/2010)

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 2/18/2010 & 2/19/2010)

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.

<u>(1) Statewide, asbestos and lead abatement:</u>	<u>300,000</u>
<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>

(19) Bennington, state office building, geothermal energy project: 2,000,000

(20) Montpelier, rehabilitation of 128 State Street for the secretary of state: 250,000

(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: 25,000

Total Appropriation – Section 1 \$26,477,951

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

<u>services and educational facilities competitive grant program:</u>	<u>180,000</u>
<u>(6) For the agricultural fairs capital projects competitive grant program. No single entity shall be awarded more than ten percent of this appropriation:</u>	<u>180,000</u>
<u>Total Appropriation – Section 6</u>	<u>\$1,080,000</u>

Sec. 7. EDUCATION

The following is appropriated in total to the department of education for:

<u>(1) State aid for emergency school construction projects pursuant to 16 V.S.A. § 3448(a)(3)(A):</u>	<u>600,000</u>
<u>(2) Emergency shelters in schools:</u>	<u>44,889</u>
<u>(3) The Burlington International airport to continue the process of planning and designing a new aviation technical training center:</u>	<u>150,000</u>
<u>(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:</u>	<u>1,157,676</u>
<u>(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:</u>	<u>5,197,435</u>
<u>Total Appropriation – Section 7</u>	<u>\$7,150,000</u>

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.

<u>Total Appropriation – Section 8</u>	<u>\$540,104</u>
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Sec. 9. UNIVERSITY OF VERMONT

The sum of \$2,000,000 is appropriated to the University of Vermont for construction, renovation, and maintenance.

<u>Total Appropriation – Section 9</u>	<u>\$2,000,000</u>
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Sec. 10. VERMONT STATE COLLEGES

The sum of \$2,000,000 is appropriated to the Vermont State Colleges for major facility maintenance.

<u>Total Appropriation – Section 10</u>	<u>\$2,000,000</u>
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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

<u>equipment:</u>	<u>2,479.03</u>
<u>(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:</u>	<u>11,921.57</u>
<u>(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:</u>	<u>7,373.00</u>
<u>(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:</u>	<u>250,000.00</u>
<u>(18) of the amount appropriated by Sec. 10(d) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for forestry planning:</u>	<u>11,922.00</u>
<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>

(29) of the amount appropriated by Sec.14(a) of No. 63 of the Acts of 2003 for non-point source pollution reduction: 57,885.15

(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: 170,537.39

Total Reallocations and Transfers – Section 23 \$1,587,000.15

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
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(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 4/1/2010 & 4/2/2010)

NEW BUSINESS

Favorable with amendment

S. 58

An act relating to electronic payment of wages

Rep. Moran of Wardsboro, for the Committee on General, Housing and Military Affairs, 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. 21 V.S.A. §§ 342 and 343 are amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any person having employees ~~in his or her service~~ doing and transacting business within the state shall pay each week, in lawful money or checks, ~~each of his or her employees~~, the wages earned by ~~such~~ each employee to a day not more than six days prior to the date of such payment.

~~(b)(2)~~ After giving written notice to ~~his or her~~ the employees, any person having employees ~~in his or her service~~ doing and transacting business within the state may, notwithstanding ~~subsection (a) of this section~~ subdivision (1) of this subsection, pay bi-weekly or semi-monthly in lawful money or checks, ~~each of his or her employees~~, employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

~~(e)(1)(b)~~ An employee who ~~voluntarily~~:

(1) Voluntarily leaves ~~his~~ employment shall be paid on the last regular pay day, or if there is no regular pay day, on the following Friday.

(2) ~~An employee who is~~ Is discharged from employment shall be paid within 72 hours of ~~his~~ discharge.

(3) ~~If an employee is~~ Is absent from his or her regular place of employment on the employer's regular scheduled date of wages or salary payment ~~such employee~~ shall be entitled to ~~such~~ payment upon demand.

~~(d)(c)~~ With the written authorization of an employee, an employer may pay wages due the employee by ~~deposit~~ any of the following methods:

(1) Deposit through electronic funds transfer or other direct deposit

systems to a checking, savings, or other deposit account maintained by or for the employee in any financial institution within or without the state.

(2) Credit to a payroll card account directly or indirectly established by an employer in a federally insured depository institution to which electronic fund transfers of the employee's wages, salary, or other employee compensation is made on a recurring basis, other than a checking, savings, or other deposit account described in subdivision (1) of this subsection, provided all the following:

(A) The employer provides the employee written disclosure in plain language, in at least 10-point type of both the following:

(i) All the employee's wage payment options.

(ii) The terms and conditions of the payroll card account option, including a complete list of all known fees that may be deducted from the employee's payroll card account by the employer or the card issuer and whether third parties may assess fees in addition to the fees assessed by the employer or issuer.

(B) Copies of the written disclosures required by subdivisions (A) and (F) of this subsection and by subsection (d) of this section shall be provided to the employee in the employee's primary language or in a language the employee understands.

(C) The employee voluntarily consents in writing to payment of wages by payroll card account after receiving the disclosures described in subdivision (A) of this subdivision (2), and this consent is not a condition of hire or continued employment.

(D) The employer provides that during each pay period the employee has at least three free withdrawals from the payroll card, one of which permits withdrawal of the full amount of the balance at a federally insured depository institution or other location convenient to the place of employment.

(E) None of the employer's costs associated with the payroll card account are passed on to the employee, and the employer shall not receive any financial remuneration for using the pay card at the employee's expense.

(F)(i) At least 21 days before any change takes effect, the employer provides the employee with written notice in plain language, in at least 10 point type, of the following:

(I) any change to any of the terms and conditions of the payroll card account, including any changes in the itemized list of fees;

(II) the employee's right to discontinue receipt of wages by a

payroll card account at any time and without penalty.

(ii) The employer may not charge the employee any additional fees until the employer has notified the employee in writing of the changes.

(G) The employer provides the employee the option to discontinue receipt of wages by a payroll card account at any time and without penalty to the employee.

(H) The payroll card issued to the employee shall be a branded-type payroll card that complies with both the following:

(i) Can be used at a PIN-based or a signature-based outlet.

(ii) The payroll card agreement prevents withdrawals in excess of the account balance and to the extent possible protects against the account being overdrawn.

(I) The employer agrees to provide a replacement payroll card at no cost to the employee before the card's expiration date. A replacement card need not be provided if the card has been inactive for a period of at least 12 months or the employee is no longer employed by the employer.

(J) A nonbranded payroll card may be issued for temporary purposes and shall be valid for no more than 60 days.

(K) The payroll card account shall not be linked to any form of credit, including a loan against future pay or a cash advance on future pay.

(L) The employer shall not charge the employee an initiation, loading, or other participatory fee to receive wages payable in an electronic fund transfer to a payroll card account, with the exception of the cost required to replace a lost, stolen, or damaged payroll card.

(M) The employer shall provide to the employee, upon the employee's written or oral request, one free written transaction history each month which includes all deposits, withdrawals, deductions, or charges by any entity from or to the employee's payroll card account for the preceding 60 days. An employee may elect to receive the monthly transaction history by electronic mail.

(d)(1) If a payroll card account is established with a financial institution as an account that is individually owned by the employee, the employer's obligations and the protections afforded under subsection (c) of this section shall cease 30 days after the employer-employee relationship ends and the employee has been paid his or her final wages.

(2) Upon the termination of the relationship between the employer and the employee who owns the individual payroll card account:

(A) the employer shall notify the financial institution of any changes in the relationship between the employer and employee; and

(B) the financial institution holding the individually owned payroll card account shall provide the employee with a written statement in plain language describing a full list of the fees and obligations the employee might incur by continuing a relationship with the financial institution.

(e) The department of banking, insurance, securities, and health care administration may adopt rules to implement subsection (c) of this section.

§ 343. FORM OF PAYMENT

~~Such~~ An employer shall not pay its employees with any form of evidence of indebtedness, including, ~~without limitation,~~ all scrip, vouchers, due bills, or store orders, unless the employer is in compliance with one or both of the following:

(1) ~~the~~ The employer is a cooperative corporation in which the employee is a stockholder. ~~However, such , in which case, the~~ cooperative corporation shall, upon request of any ~~such~~ shareholding employee, pay ~~him~~ the shareholding employee as provided in section 342 of this title; ~~or~~ .

(2) ~~payment~~ Payment is made by check as defined in Title 9A or by an electronic fund transfer as provided in section 342 of this title.

Sec. 2. 8 V.S.A. § 2707(6) is added to read:

(6) A payroll card account issued pursuant to and in full compliance with 21 V.S.A. § 342(c).

Sec. 3. LEGISLATIVE INTENT; REPORT

The intent of this act is to provide employees with a convenient, safe, and flexible way to receive wages and to reduce employers' payroll costs by allowing for the transfer of wages to a payroll card account. The general assembly recognizes that unforeseen issues regarding the use of payroll accounts may arise. The department of banking, insurance, securities, and health care administration and the department of labor shall report to the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs if they identify any problems associated with the use of payroll card accounts.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 8-0-0)

(For text see Senate Journal 3/31 - 4/2/10)

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. 161

An act relating to National Crime Prevention and Privacy Compact

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

By adding Secs. 2 – 13 to read:

*** * * Providing Complete Out-of-State Conviction Records for
School Employees * * ***

Sec. 2. 16 V.S.A. § 252(1) is amended to read:

(1) "Criminal record" means the record of:

(A) convictions in Vermont, including whether any of the convictions is an offense listed in 13 V.S.A. § 5401(10) (sex offender definition for registration purposes); and

(B) convictions in other jurisdictions recorded in other state repositories or by the Federal Bureau of Investigation (FBI) ~~for the following crimes or for crimes of an equivalent nature:~~

- ~~(i) Crimes listed in subdivision 5301(7) of Title 13.~~
- ~~(ii) Contributing to juvenile delinquency under section 1301 of Title 13.~~
- ~~(iii) Cruelty to children under section 1304 of Title 13.~~
- ~~(iv) Cruelty by person having custody under section 1305 of Title 13.~~
- ~~(v) Prohibited acts under sections 2632 and 2635 of Title 13.~~
- ~~(vi) Displaying obscene materials to minors under section 2804b of Title 13.~~
- ~~(vii) Sexual exploitation of children under chapter 64 of Title 13.~~

~~(viii) Drug sales, including selling or dispensing under sections 4230(b), 4231(b), 4232(b), 4233(b), 4234(b), 4235(e), 4235a(b), and 4237 of Title 18.~~

~~(ix) Sexual activity by a caregiver, under subsection 6913(d) of Title 33.~~

Sec. 3. 16 V.S.A. § 255 is amended to read:

§ 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;
CONTRACTORS

* * *

(d)(1) Upon completion of a criminal record check, the Vermont criminal information center shall send to the superintendent ~~or headmaster~~ a notice that no record exists or, if a record exists:

~~(1) a copy of any criminal record for Vermont convictions; and~~

~~(2) if the requester is a superintendent, a notice of any criminal record which is located in either another state repository or FBI records, but not a record of the specific convictions except those relating to crimes of a sexual nature involving children.~~

~~(3) if the requester is a headmaster, a~~

Upon completion of a criminal record check, the Vermont criminal information center shall send to the headmaster a notice that no record exists or, if a record exists:

(A) A copy of Vermont criminal convictions.

(B) A notice of any criminal record which is located in either another state repository or FBI records, but not a record of the specific convictions. However, if there is a record relating to any crimes of a sexual nature involving children, the Vermont criminal information center shall send this record to the commissioner who shall notify the headmaster in writing, with a copy to the person about whom the request was made, that the record includes one or more convictions for a crime of a sexual nature involving children.

(f) Information sent to a person by the commissioner, a headmaster, a superintendent or a contractor under ~~subsections (d)(3) and subsection~~ (e) of this section shall be accompanied by a written notice of the person's rights under subsection (g) of this section, a description of the policy regarding maintenance and destruction of records, and the person's right to request that the notice of no record or record be maintained for purposes of using it to comply with future criminal record check requests pursuant to section 256 of

this title.

(g)(1) Following notice that a headmaster was notified that a criminal record which is located in either another state repository or FBI records exists, a person may:

~~(1)(A)~~ Sign a form authorizing the Vermont criminal information center to release a detailed copy of the criminal record ~~to a superintendent or~~ to the person.

(B) Decline or resign employment.

(2) ~~Challenge~~ Any person subject to a criminal record check pursuant to this section may challenge the accuracy of the record by appealing to the Vermont criminal information center pursuant to rules adopted by the commissioner of public safety.

~~(3) Decline or resign employment.~~

Sec. 4. Sec. 5 of No. 1 of the Acts of 2009 is amended to read:

Sec. 5. 16 V.S.A. § 255 is amended to read:

§ 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;

CONTRACTORS

* * *

(d)(1) Upon completion of a criminal record check, the Vermont criminal information center shall send to the superintendent a notice that no record exists or, if a record exists, a copy of any criminal record

(2) Upon completion of a criminal record check, the Vermont criminal information center shall send to the headmaster a notice that no record exists or, if a record exists:

(A) A copy of Vermont criminal convictions.

(B) A notice of any criminal record which is located in either another state repository or FBI records, but not a record of the specific convictions. However, if there is a record relating to any crimes of a sexual nature involving children, the Vermont criminal information center shall send this record to the commissioner who shall notify the headmaster in writing, with a copy to the person about whom the request was made, that the record includes one or more convictions for a crime of a sexual nature involving children.

* * *

*** * * Commercial Driver License Disqualifiers * * ***

Sec. 5. 23 V.S.A. § 4108 is amended to read:

§ 4108. COMMERCIAL DRIVER LICENSE QUALIFICATION
STANDARDS

(a) Before issuing a commercial driver license, the commissioner shall request the applicant's complete operating record from any state in which the applicant was previously licensed to operate any type of motor vehicle in the past 10 years and conduct a check of the applicant's operating record by querying the national driver register established under 49 U.S.C. § 30302 and the commercial driver's license information system established under 49 U.S.C. § 31309 to determine if:

(1) the applicant has already been issued a commercial driver license;

(2) the applicant's commercial driver license has been suspended, revoked, or canceled; or

(3) the applicant has been convicted of any offense listed in Section 205(a)(3) of the National Driver Register Act of 1982 (49 U.S.C. § 30304(a)(3)).

~~(b) Except as otherwise provided, the~~ The commissioner shall not issue a commercial driver license ~~and or~~ or commercial driver instruction permit to any person;

(1) under the age of 21 years except as otherwise provided.

~~(b)(2)~~ who, within three years of the license application and for initial applicants only, has been convicted of an offense listed in subsection 4116(a) of this title (or a comparable offense in any jurisdiction), or convicted of an offense listed in 49 U.S.C. § 30304(a)(3) in any jurisdiction.

~~(3) No person may be issued a commercial driver license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H and has satisfied all other requirements of Title XII of Public Law 99-570 the Commercial Motor Vehicle Safety Act of 1986, as amended, in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the commissioner.~~

* * *

Sec. 6. 23 V.S.A. § 4110(a) is amended to read:

(a) The application for a commercial driver license or commercial driver instruction permit shall include the following:

* * *

(6) Certifications that:

* * *

(C) the applicant is not subject to any disqualification under 49 C.F.R. ~~part 385.51~~ section 383.51, or any license suspension, revocation, or cancellation under ~~state law~~ the law of any jurisdiction; ~~and~~

(D) the applicant does not have a driver's license from more than one state or jurisdiction; ~~and~~

(E) for initial applicants only, the applicant has not been convicted of an offense listed in subsection 4116(a) of this title (or a comparable offense in any jurisdiction) or an offense listed in 49 U.S.C. § 30304(a)(3) in any jurisdiction within three years of the license application.

Sec. 7. 23 V.S.A. § 4111(c) is amended to read:

~~(c) Before issuing a commercial driver license, the commissioner shall request the applicant's complete operating record from any state in which the applicant was previously licensed to operate any type of motor vehicle in the past 10 years, conduct a check of the applicant's operating record by querying the national driver register, established under 49 U.S.C. § 30302 and the commercial driver's license information system, established under 49 U.S.C. § 31309, to determine if:~~

~~(1) the applicant has already been issued a commercial driver license; and the applicant's commercial driver license has been suspended, revoked, or canceled;~~

~~(2) the applicant had been convicted of any offenses contained in Section 205(a)(3) of the National Driver Register Act of 1982 (23 U.S.C. § 401 note). [Repealed.]~~

*** * * Conditioning Motor Vehicle Registration on Proof of
Financial Responsibility * * ***

Sec.8. PROOF OF FINANCIAL RESPONSIBILITY AS A
CONDITION OF MOTOR VEHICLE REGISTRATION;
IMPLEMENTATION; REPORTING

The commissioner of motor vehicles shall examine the administrative tasks that would be needed to implement legislation requiring issuance of an initial or renewal motor vehicle registration to be conditional on the commissioner's receipt of proof of liability insurance or financial responsibility required under

23 V.S.A. § 800(a). The commissioner also shall examine the costs associated with and earliest feasible time frame for implementing such legislation so that the general assembly may advance the goal of bringing more operators of motor vehicles into compliance with their legal obligation to maintain financial responsibility. The commissioner shall report his or her findings to the senate and house committees on judiciary and on transportation by January 15, 2011.

*** * * Municipality Exemption to Records Law * * ***

Sec. 9. 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.

*** * * Consider Expanding Out-of-state Criminal Record Checks * * ***

Sec. 10. VERMONT CRIMINAL INFORMATION CENTER

No later than December 1, 2010, the Vermont criminal information center and the defender general shall report to the house and senate committees on judiciary on the legal, policy, and procedural issues involved with broadening access to fingerprint-supported national record checks.

*** * * Constable Training * * ***

Sec. 11. Sec. 13 of No. 195 of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 13. EFFECTIVE DATE

Secs. 8 and 9 of this act shall take effect ~~July 1, 2010~~ July 1, 2012.

*** * * Interstate Compact for Juveniles * * ***

Sec. 12. 33 V.S.A. chapter 57 is amended by repealing sections 5701–5715 and adding sections 5721–5733 to read:

§ 5721. PURPOSE

(a) The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in so doing have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(b) It is the purpose of this compact, through means of joint and cooperative action among the compacting states, to:

(1) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(2) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(3) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(4) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(5) provide for the effective tracking and supervision of juveniles;

(6) equitably allocate the costs, benefits, and obligations of the compacting states;

(7) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

(8) ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(9) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(10) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state, executive, judicial, and legislative branches, and juvenile and criminal justice administrators;

(11) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(12) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

(13) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles, particularly in those cases where concurrent or overlapping supervision issues arise.

(c) It is the policy of the compacting states that the activities conducted by the Interstate Commission created in this chapter are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

§ 5722. DEFINITIONS

As used in this chapter, unless the context clearly requires a different construction:

(1) “Bylaws” means those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

(2) “Commissioner” means the voting representative of each compacting state appointed pursuant to section 5723 of this title.

(3) “Compact administrator” means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state’s supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the state council under this compact.

(4) “Compacting state” means any state which has enacted the enabling legislation for this compact.

(5) “Court” means any court having jurisdiction over delinquent, neglected, or dependent children.

(6) “Deputy compact administrator” means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact responsible for the administration and management of the state’s supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

(7) “Interstate commission” means the Interstate Commission for juveniles created by section 5723 of this title.

(8) “Juvenile” means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(A) an accused delinquent (a person charged with an offense that, if committed by an adult, would be a criminal offense);

(B) an adjudicated delinquent (a person found to have committed an offense that, if committed by an adult, would be a criminal offense);

(C) an accused status offender (a person charged with an offense that would not be a criminal offense if committed by an adult);

(D) an adjudicated status offender (a person found to have committed an offense that would not be a criminal offense if committed by an adult); and

(E) a nonoffender (a person in need of supervision who has not been accused or adjudicated a status offender or delinquent).

(9) “Noncompacting state” means any state which has not enacted the enabling legislation for this compact.

(10) “Probation or parole” means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

(11) “Rule” means a written statement by the Interstate Commission promulgated pursuant to section 5726 of this title that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission; and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

(12) “State” means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

§ 5723. INTERSTATE COMMISSION FOR JUVENILES

(a) The compacting states hereby create the Interstate Commission for Juveniles. The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers, and duties set forth in this chapter, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council for interstate juvenile supervision created in this chapter. The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

(c) In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. The noncommissioner members shall include a member of the National Organizations of Governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex-officio members, including members of other national organizations, in such numbers as shall be determined by the commission.

(d) Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(e) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings, and meetings shall be open to the public.

(f) The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amending the compact. The executive committee shall: oversee the day-to-day activities of the

administration of the compact, managed by an executive director and Interstate Commission staff; administer enforcement and compliance with the provisions of the compact, its bylaws, and rules; and perform such other duties as directed by the Interstate Commission or set forth in the bylaws.

(g) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(h) The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(i) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by statute;

(3) disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) involve accusing any person of a crime, or formally censuring any person;

(5) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigative records compiled for law enforcement purposes;

(7) disclose information contained in or related to examination, operating, or condition reports prepared by or on behalf of or for the use of the Interstate Commission with respect to a regulated person or entity for the

purpose of regulation or supervision of such person or entity;

(8) disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

(9) specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

(j) For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(k) The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, insofar as is reasonably possible, conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

§ 5724. POWERS AND DUTIES

(a) The commission shall have the following powers and duties:

(1) To provide for dispute resolution among compacting states.

(2) To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(3) To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.

(4) To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including the use of judicial process.

(5) To establish and maintain offices which shall be located within one or more of the compacting states.

(6) To purchase and maintain insurance and bonds.

(7) To borrow, accept, hire, or contract for services of personnel.

(8) To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions, including an executive committee as required by section 5723 of this title which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

(9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.

(10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

(11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(13) To establish a budget and make expenditures and levy dues as provided in section 5728 of this title.

(14) To sue and be sued.

(15) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(18) To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

(19) To establish uniform standards of the reporting, collecting, and exchanging of data.

(b) The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

§ 5725. ORGANIZATION AND OPERATION

(a) Bylaws. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:

(1) establishing the fiscal year of the Interstate Commission;

(2) establishing an executive committee and such other committees as may be necessary;

(3) providing for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

(4) providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

(5) establishing the titles and responsibilities of the officers of the Interstate Commission;

(6) providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations.

(7) providing start-up rules for initial administration of the compact; and

(8) establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b) Officers and staff.

(1) The Interstate Commission shall, by a majority of its members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem

appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

(c) Qualified immunity, defense, and indemnification.

(1) The commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(3) The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or

responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

§ 5726. RULEMAKING

(a) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(b) Rulemaking shall occur pursuant to the criteria set forth in this section and the bylaws and rules adopted under it. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act as the Interstate Commission deems appropriate, consistent with due process requirements under the United States and Vermont Constitutions. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.

(c) When promulgating a rule, the Interstate Commission shall, at a minimum:

(1) publish the proposed rule's entire text, stating the reason for the proposed rule;

(2) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and made publicly available;

(3) provide an opportunity for an informal hearing if petitioned by 10 or more persons; and

(4) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(d) The Interstate Commission shall allow any interested person to file a petition for judicial review of a rule not later than 60 days after the rule is promulgated. The petition shall be filed in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

(e) If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and

effect in any compacting state.

(f) The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this chapter shall be null and void 12 months after the second meeting of the Interstate Commission created by section 5723 of this title.

(g) Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures of this section shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

§ 5727. OVERSIGHT; ENFORCEMENT; DISPUTE RESOLUTION

(a) Oversight.

(1) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

(b) Dispute resolution.

(1) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

(2) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a

rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(3) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in section 5731 of this title.

§ 5728. FINANCE

(a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state, and the Interstate Commission shall promulgate a rule binding upon all compacting states which governs said assessment.

(c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet them. The Interstate Commission shall not pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws, provided that all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

§ 5729. STATE COUNCIL

Each member state shall create a state council for Interstate Juvenile Supervision. Each state may determine the membership of its own state council, provided that its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council shall advise and may exercise oversight and advocacy

concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including development of policy concerning operations and procedures of the compact within that state.

§ 5730. COMPACTING STATES; EFFECTIVE DATE; AMENDMENT

(a) Any state as defined in subdivision 5722(12) of this title is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(c) The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

§ 5731. WITHDRAWAL; DEFAULT; TERMINATION; JUDICIAL

ENFORCEMENT

(a) Withdrawal.

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall

occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission

(b) Technical assistance, fines, suspension, termination, and default.

(1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

(A) remedial training and technical assistance as directed by the Interstate Commission;

(B) alternative dispute resolution;

(C) fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; or

(D) suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules, and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states, and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

(2) Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

(3) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including any obligations the performance of which extends beyond the effective date of

termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(5) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(c) Judicial enforcement. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact its duly promulgated rules and bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(d) Dissolution of compact.

(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

§ 5732. SEVERABILITY; CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

§ 5733. BINDING EFFECT; OTHER LAWS

(a) Other laws.

(1) Nothing in this chapter prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

(b) Binding effect of compact.

(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective, and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Sec. 13. EFFECTIVE DATE

Secs. 5 – 7 shall take effect July 1, 2011, and the remainder of the act shall take effect July 1, 2010.

(Committee vote: 9-0-2)

(No Senate Amendments)

**Ordered to Lie
H.R. 19**

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

Pending Question: Shall the House adopt the resolution?

S. 122

An act relating to recounts in elections for statewide offices.

Pending Question: Shall the bill be amended as offered by Rep. Haas of Rochester?