Senate Calendar

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UNFINISHED BUSINESS OF TUESDAY, MARCH 16, 2010

Second Reading

Favorable

J.R.H. 34.

Joint resolution in support of the New England Secondary School Consortium.

Reported favorably by Senator Starr for the Committee on Education.

(Committee vote: 4-0-1)

Favorable with Recommendation of Amendment

S. 222.

An act relating to recognition of Abenaki tribes.

Reported favorably with recommendation of amendment by Senator Miller for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds the following:

(1) State recognition of Vermont's tribes is necessary in order for the Indian Arts and Crafts Board (IACB) of the Bureau of Indian Affairs to permit them to market their arts and crafts as authentic Indian products and to provide tribal members access to state, federal, and private aid for cultural, artistic, and educational endeavors.

(2) In May 2006, the general assembly passed S.117, Act No. 125, in an effort to recognize the Abenaki people and create a Vermont Commission on Native American Affairs. The act failed to comport with the recognition requirements of the IACB, and therefore prevented Vermont Native Americans from marketing their arts and crafts as authentic Indian works.

(3) Fifteen other states have recognized their resident Native people as American Indian Tribes, without any of those tribes previously or subsequently acquiring federal recognition.

(4) According to a public affairs specialist from the U.S. Bureau of Indian Affairs (BIA) state recognition of Indian tribes plays a very small role in regard to federal recognition. The only exception is when a state recognized a tribe well before 1900.

(5) Recognition of a tribe by a state at this time will play no significant role in any subsequent effort to gain federal tribal recognition.

Sec. 2. 1 V.S.A. § 852 is amended to read:

§ 852. VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS ESTABLISHED; AUTHORITY

(a) In order to recognize the historic and cultural contributions of Native Americans to Vermont, to protect and strengthen their heritage, and to address their needs in state policy, programs, and actions, there is hereby established the Vermont commission on Native American affairs (the "commission").

(b) The commission shall ~~comprise seven members appointed by the governor for two-year terms from a list of candidates compiled by the division for historic preservation. The governor shall appoint a chair from among the members of the commission. The division shall compile a list of candidates' recommendations from the following:~~

~~(1) Recommendations from the Missisquoi Abenaki and other Abenaki and other Native American regional tribal councils and communities in Vermont.~~

~~(2) Applicants who apply in response to solicitations, publications, and website notification by the division of historical preservation~~:

(1) Be composed of the following members, who shall serve for no more than two consecutive three-year terms:

(A) Three members appointed by the Abenaki Nation of Missisquoi, St. Francis Sokoki Band, which is composed of the three Missisquoi Bands.

(B) One member appointed by the Koasek Traditional Band of the Koas Abenaki Nation.

(C) One member appointed by the Nulhegan Band of the Abenaki Nation.

(D) One member appointed by the ELNU Abenaki Tribe of the Koasek.

(E) One member appointed by any additional Abenaki tribe following recognition by the general assembly.

(F) Two or three at-large members to assure an odd number of members on the commission, to be appointed by the other commission members.

(2) Elect a chair to serve for two years.

(c) The commission shall ~~have the authority to assist Native American tribal councils, organizations, and individuals to~~:

(1) Assist Native American tribes recognized by the state to:

(A) Develop and market Vermont Native American fine and performing arts, craftwork, and cultural events in and outside Vermont.

(B) Secure social services, education, employment opportunities, health care, housing, and census information.

~~(2) Permit the creation, display, and sale of Native American arts and crafts and legally to label them as Indian or Native American produced as provided in 18 U.S.C. § 1159(c)(3)(B) and 25 U.S.C. § 305e(d)(3)(B)~~

~~(3) Receive assistance and support from the federal Indian Arts and Crafts Board, as provided in 25 U.S.C. § 305 et seq.~~

~~(4) Become eligible for federal assistance with educational, housing, and cultural opportunities.~~

~~(5) Establish and continue programs offered through the U.S. Department of Education Office on Indian Education pursuant to Title VII of the Elementary and Secondary Education Act established in 1972 to support educational and cultural efforts of tribal entities that have been either state or federally recognized.~~

(2) Assist bands and groups of Native Americans who are unrecognized to organize and develop a representative tribal organization in order to petition for legal tribal recognition by the state.

(3) Review petitions for tribal recognition, and, if satisfied that petitioners have complied with recognition criteria, file with the general assembly a copy of the petition together with a recommendation to recognize the band or group as a recognized tribe.

(4) Develop policies and programs to benefit Vermont's Native American population.

(d) The commission shall meet at least three times a year and at any other times at the request of the chair. The division of historic preservation of the agency of commerce and community development ~~and the department of education~~ shall provide administrative support to the commission.

(e) The commission may seek and receive funding from state, federal, and other sources to assist with its work.

Sec. 3. 1 V.S.A. § 853 is amended to read:

§ 853. RECOGNITION OF ABENAKI PEOPLE

(a) The state of Vermont recognizes ~~the Abenaki people and recognizes~~ all Native American people who reside in Vermont as a minority population.

(b) ~~Recognition of the Native American or Abenaki people provided in subsection (a) of this section shall be for the sole purposes specified in subsection 852(c) of this title and shall not be interpreted to provide any Native American or Abenaki person with any other special rights or privileges that the state does not confer on or grant to other state residents.~~ For the purposes of recognition, a Vermont Native American tribe must demonstrate that it has all of the following:

(1) A physical and legal residence in Vermont.

(2) An organized tribal membership roll along with specific criteria that were used to determine membership, including evidence of kinship among tribal members.

(3) Documented traditions, customs, and legends that signify Native American heritage.

(4) A tribal council, a constitution, and a chief.

(5) Been and continues to be recognized by other Native American communities in Vermont as a Vermont Native American band or group.

(6) Been known by state, county, or municipal officials, as a functioning Native American band or group in Vermont.

(7) Not been recognized as a tribe in any other state, province, or nation.

(8) An enduring community presence within the boundaries of Vermont that is documented by archaeology, ethnography, physical anthropology, history, genealogy, folklore, or any other applicable scholarly research and data.

(c) A band or group of Native Americans not identified in subsection (e) of this section may file a petition for recognition with the commission. If after thorough review of the petition and evidence supporting recognition, the commission determines that the petitioning group has complied with the criteria under subsection (b) of this section, the commission shall recommend to the general assembly that the state recognize the tribe.

(d) After a group or band is recognized by the general assembly as a Native American tribe, the band or group may refer to itself as a recognized tribe, and

the tribe may appoint a member of that tribe to the Vermont commission on Native American affairs.

(e) Having complied with the criteria in subsection (b) of this section, the following groups or bands are recognized as Native American tribes by the state of Vermont:

(1) The Abenaki Nation of Missisquoi, St. Francis Sokoki Band, composed of the former Missisquoi, St. Francis, and Sokoki Bands.

(2) The Koasek Traditional Band of the Koas Abenaki Nation.

(3) The Nulhegan Band of the Abenaki Nation, historically known as the Northern Coosuk/Memphremagog/Old Philip's Band.

(4) The ELNU Abenaki Tribe of the Koasek.

(f) Native American tribes recognized by the state of Vermont may freely practice their traditional culture, lifeways, arts, language, and religion without interference, provided there is no violation of law.

(g) All documents related to recognition of any Vermont Native American tribe shall be maintained by the division of historic preservation and made available to the public.

(h) This chapter shall not be construed to recognize, create, extend, or form the basis of any right or claim to land or real estate in Vermont for the Abenaki people or any Abenaki individual and shall be construed to confer only those rights specifically described in this chapter. Abenaki tribes and other Vermont Native American tribes and individual members of those tribes are subject to the laws of the state.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

S. 283.

An act relating to amending miscellaneous motor vehicle laws, eliminating the motorcycle rider training program advisory committee, and repealing the interstate compact for motor vehicle safety equipment.

Reported favorably with recommendation of amendment by Senator Scott for the Committee on Transportation.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and part 5 of Title 20, the following definitions shall apply:

* * *

(45) "Moped" means a motor driven cycle equipped with two or three wheels, with or without foot pedals to permit muscular propulsion, a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, mopeds shall be subject to the purchase and use tax imposed under chapter 219 of Title 32 rather than to a general sales tax. An electric personal assistive mobility device is not a moped.

* * *

Sec. 2. 23 V.S.A. § 114(a)(21) is amended to read:

(21) Records not otherwise specified ~~4.00~~ 6.00 per page

Sec. 3. 23 V.S.A. §§ 453 and 459 are amended to read:

§ 453. FEES AND NUMBER PLATES

* * *

(g) The commissioner of motor vehicles shall not issue a dealer's certificate of registration to a new or used car dealer~~,~~ unless the dealer has provided the commissioner with a surety bond, letter of credit, or certificate of deposit issued by an entity authorized to transact business in the same state. The amount of such surety bond, letter of credit, or certificate of deposit shall be between ~~$5,000.00~~ $20,000.00 and ~~$15,000.00,~~ $35,000.00 based on the number of new or used units sold in the previous year; such schedule is to be determined by the commissioner of motor vehicles. In the case of a certificate of deposit, it shall be issued in the name of the dealer and assigned to the commissioner or his or her designee. The bond, letter of credit, or certificate of deposit shall serve as indemnification for any monetary loss suffered by the state or by a purchaser of a motor vehicle by reason of the dealer's failure to remit to the commissioner any fees collected by the dealer under the provisions of chapters 7 and 21 of this title or by a dealer's failure to remit to the commissioner any tax collected by the dealer under chapter 219 of Title 32. This state or the motor vehicle owner who suffers such loss or damage shall

have the right to claim against the surety upon the bond or against the letter of credit or certificate of deposit. The bond, letter of credit, or certificate of deposit shall remain in effect for the pending registration year and one year thereafter. The liability of any such surety or claim against the letter of credit or certificate of deposit shall be limited to the amount of the fees or tax collected by the dealer under chapters 7 and 21 of this title or chapter 219 of Title 32 and not remitted to the commissioner.

§ 459. NOTICE TO COMMISSIONER

(a) Upon issuing a number plate with temporary validation stickers, temporary number plate, or decal to a purchaser for attachment to a motor vehicle, a dealer shall, within ~~three business~~ 15 calendar days, forward to the commissioner the application and fee, deposited with him or her by the purchaser, together with notice of such issue and such other information as the commissioner may require.

(b) If a number plate with temporary validation stickers, temporary registration plate, or decal is not issued by a dealer in connection with the sale or exchange of a motor vehicle, the dealer may accept, from the purchaser, a properly executed registration, tax and title application, and the required fees for transmission to the commissioner. The dealer shall, within ~~three business~~ 15 calendar days, forward to the commissioner the application and fee together with such other information as the commissioner may require.

Sec. 4. 23 V.S.A. § 1129(a) is amended to read:

(a) The operator of a motor vehicle involved in an accident whereby a person is injured or whereby there is total damage to all property to the extent of ~~$1,000.00~~ $3,000.00 or more shall make a written report concerning the accident to the commissioner of motor vehicles on forms furnished by the commissioner. The written report shall be mailed to the commissioner within 72 hours after the accident. The commissioner may require further facts concerning the accident to be provided upon forms furnished by him or her.

Sec. 5. 23 V.S.A. § 1222(c) is amended to read:

(c) Notwithstanding the provisions of subsection (a) of this section, an exhibition vehicle of model year 1940 or before~~,~~ registered as prescribed in section 373 of this title or a trailer registered as prescribed in subdivision 371(a)(1)(A) of this title shall be exempt from inspection; provided, however, the vehicle must be equipped as originally manufactured, must be in good mechanical condition, and must meet the applicable standards of the inspection manual.

Sec. 6. 23 V.S.A. § 2017(b) is amended to read:

(b) The commissioner shall maintain at his or her central office a record of all certificates of title issued by him or her:

~~(1) Under~~ for vehicles 15 years old and newer under a distinctive title number assigned to the vehicle;

~~(2) Under~~ under the identification number of the vehicle;

~~(3) Alphabetically~~ alphabetically, under the name of the owner; and, in the discretion of the commissioner, by any other method he or she determines. The original records may be maintained on microfilm or electronic imaging. ~~and, in the discretion of the commissioner, by any other method he or she determines. The original records may be maintained on microfilm or electronic imaging.~~

Sec. 7. REPEAL

23 V.S.A. § 735 (motorcycle rider training program advisory committee) and chapter 20 of Title 23 (interstate compact for motor vehicle safety equipment) are repealed.

(Committee vote: 5-0-0)

Reported favorably by Senator Hartwell for the Committee on Finance.

(Committee vote: 3-0-2)

UNFINISHED BUSINESS OF FRIDAY, MARCH 12, 2010

House Proposal of Amendment

S. 77

An act relating to the disposal of electronic waste.

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

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds:

(1) According to the U.S. Environmental Protection Agency, discarded computers, computer monitors, televisions, and other consumer electronics—collectively referred to as e-waste—are the fastest growing portion of the waste stream, growing by approximately eight percent from 2004 to 2005.

(2) Televisions, computers, computer monitors, and printers are prevalent in modern society and contribute significantly to the waste generated in Vermont.

(3) Televisions, computers, computer monitors, and printers contain

lead, mercury, and other hazardous substances that pose a threat to human health and the environment if improperly disposed of at the end of the useful life of these products.

(4) The state of Vermont has committed to providing its citizens with a safe and healthy environment and has actively undertaken efforts such as mercury reduction programs to reduce the potential for contamination.

(5) The appropriate recycling of televisions, computers, computer monitors, and printers protects public health and the environment by reducing the potential for the release of heavy metals and mercury from landfills into the environment, consistent with other state initiatives, and also conserving valuable landfill space.

(6) The establishment of a system to provide for the collection and recycling of televisions, computers, computer monitors, and printers in Vermont is consistent with the state's duty to protect the health, safety, and welfare of its citizens; maintain and enhance the quality of the environment; conserve natural resources; prevent pollution of air, water, and land; and stimulate economic growth.

Sec. 2. 10 V.S.A. chapter 166 is added to read:

CHAPTER 166. COLLECTION AND RECYCLING OF ELECTRONIC DEVICES

§ 7551. DEFINITIONS

For the purposes of this chapter:

(1) "Agency" means the agency of natural resources.

(2) "Cathode-ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

(3) "Collection" means the aggregation of covered electronic devices from covered entities and includes all the activities up to the time the covered electronic devices are delivered to a recycler.

(4) "Collector" means a public or private entity that receives covered electronic devices from covered entities and arranges for the delivery of the devices to a recycler.

(5) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, including a laptop computer, desktop computer, and central processing unit. "Computer" does not include an automated typewriter or typesetter or other similar device.

(6) "Computer monitor" means a display device without a tuner that can

display pictures and sound and is used with a computer.

(7) "Computer peripheral" means a keyboard or any other device sold exclusively for external use with a computer that provides input or output into or from a computer.

(8) "Covered electronic device" means a: computer; computer monitor; device containing a cathode ray tube; printer; or television sold to a covered entity. "Covered electronic device" does not include: any motor vehicle or any part thereof; a camera or video camera; a portable or stationary radio; a wireless telephone; a household appliance, such as a clothes washer, clothes dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development, or commercial setting; security or anti-terrorism equipment; monitoring and control instruments or systems; thermostats; hand-held transceivers; a telephone of any type; a portable digital assistant or similar device; a calculator; a global positioning system receiver or similar navigation device; commercial medical equipment that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display that is not separate from the larger piece of equipment; or other medical devices, as the term "device" is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug, and Cosmetic Act, as that section is amended from time to time.

(9) "Covered entity" means any household, charity, or school district in the state; or a business in the state that employs ten or fewer individuals.

(10) "Electronic waste" means a: computer; computer monitor; computer peripheral device containing a cathode ray tube; printer; or television sold to a covered entity. "Electronic waste" does not include: any motor vehicle or any part thereof; a camera or video camera; a portable or stationary radio; a wireless telephone; a household appliance, such as a clothes washer, clothes dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development, or commercial setting; security or antiterrorism equipment; monitoring and control instruments or systems; thermostats; handheld transceivers; a telephone of any type; a portable digital assistant or similar device; a calculator; a global positioning system receiver or similar navigation device; commercial medical equipment that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display that is not separate from the larger piece of equipment; or other medical devices, as the term "device" is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug, and Cosmetic Act, as that section is amended from time to time.

(11) "Manufacturer" means a person who:

(A) Manufactures or manufactured a covered electronic device under its own brand or label for sale in the state;

(B) Sells in the state under its own brand or label covered electronic devices produced by another supplier;

(C) Owns a brand that it licenses or licensed to another person for use on a covered electronic device sold in the state;

(D) Imports covered electronic devices into the United States for sale in the state;

(E) Manufactures covered electronic devices for sale in the state without affixing a brand name; or

(F) Assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (A) through (E) of this subdivision (11), provided that the secretary may enforce the requirements of this chapter against a manufacturer if a person who assumes the manufacturer's responsibilities fails to comply with the requirements of this chapter.

(12) "Market share" means a "manufacturer's market share" which shall be the manufacturer's percentage share of the total weight of covered electronic devices sold in the state as determined by the best available information, which may include an estimate of the aggregate total weight of the manufacturer's covered electronic devices sold in the state during the previous program year based on national sales data.

(13) "Printer" means desktop printers, multifunction printer copiers, and printer fax combinations taken out of service that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or "all-in-one" devices that perform different tasks, including copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with an optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or nonstand-alone printers that are embedded into products that are not covered electronic products.

(14) "Program year" means the period from July 1 through June 30.

(15) "Recycler" means a person who accepts electronic waste from covered entities and collectors for the purpose of recycling. A person who takes products solely for reuse, refurbishment, or repair is not a recycler.

(16) "Recycling" means the process of collecting and preparing electronic wastes for use in manufacturing processes or for recovery of useable materials followed by delivery of such materials for use. Recycling does not include destruction by incineration; waste-to-energy incineration, or other such

processes; or land disposal.

(17) "Retailer" means a person who sells, rents, or leases covered electronic devices to a person in the state, through any means, including sales outlets, catalogues, the telephone, the Internet, or any electronic means.

(18) "Sell" or "sale" means any transfer for consideration of title or of the right to use by lease or sales contract of a covered electronic device to a person in the state. "Sell" or "sale" does not include the sale, resale, lease, or transfer of used covered electronic devices or a manufacturer's or a distributor's wholesale transaction with a distributor or a retailer.

(19) "Television" means any telecommunications system or device containing a cathode ray tube or other type of display system with a viewable area of greater than four inches when measured diagonally that can broadcast or receive moving pictures and sound over a distance and includes a television tuner or a display device peripheral to a computer that contains a television tuner.

(20) "Transporter" means a person that moves electronic waste from a collector to a recycler.

§ 7552. STANDARD ELECTRONIC WASTE RECYCLING PLAN

(a) Standard plan adoption. Beginning January 1, 2011, the secretary shall adopt a plan for the collection and recycling of all electronic waste in the state. In developing the plan, the secretary shall evaluate existing electronic waste collection opportunities and services in each county to determine whether such opportunities and services are adequate. In making an adequacy determination, the secretary shall consider the geography, population, and population density of each county. If, after completion of an adequacy review, the secretary determines that the collection opportunities in a county are:

(1) inadequate, the secretary may require additional collection activities in that county. Additional collection activities may include additional collection facilities, collection events, or other collection activities identified by the secretary as necessary to achieve the statewide recycling goal. If the secretary requires additional collection activities, the secretary shall consider, as one of the criteria reviewed in selecting additional collection activities, the cost effectiveness of the additional collection activities in achieving the objective of convenient service.

(2) adequate, and that additional collection opportunities are not required.

(b) Standard plan minimum requirements. The standard plan shall:

(1) Site at least three permanent facilities in each county for the collection of electronic waste from covered entities, unless the secretary

determines that existing or proposed collection opportunities are not required, but in no case shall the secretary reduce the number of permanent facilities below one.

(2) Site at least one permanent facility in each city or town with a population of 10,000 or greater for the collection of electronic waste from covered entities.

(3) Require electronic waste collection facilities to accept electronic waste at no cost to covered entities.

(4) Ensures that each recycler used in implementing the plan complies with the recycling standards established under section 7559 of this title.

(5) Ensures that during plan implementation a public information and outreach effort takes place to inform consumers about how to recycle their electronic waste at the end of the product's life.

(6) Require electronic waste collection facilities to be staffed, open on an ongoing basis, and open to the public at a frequency needed to meet the needs of the area being served.

(7) Prohibit a collection facility from refusing to accept electronic waste delivered to the facility for recycling from a covered entity.

(c) Plan evaluation. The secretary shall annually review and analyze the standard plan to determine if implementation of the standard plan achieves the statewide collection and recycling goal set forth under section 7555 of this title. The secretary may modify the plan based upon the results of that review.

(d) Plan term. The secretary shall revise and adopt the standard plan every five years.

(e) Public review and consultation. Prior to the approval or modification of the standard plan, the agency shall make the proposed standard plan available for public review and comment for at least 30 days. The agency shall consult with interested persons, including manufacturers, recyclers, collectors, retailers, solid waste districts, and environmental groups.

(f) Applicability. A collector, transporter, or recycler not included in a plan approved under this section or under a plan approved under section 7554 of this title shall not be subject to the requirements of this section or section 7554.

§ 7553. SALE OF COVERED ELECTRONIC DEVICES; MANUFACTURER REGISTRATION

(a) Sale prohibited. Beginning July 1, 2010, no manufacturer shall sell or offer for sale or deliver to a retailer for subsequent sale a covered electronic device unless:

(1) the manufacturer has filed the registration required by this section;

(2)(A) beginning July 1, 2010, and annually thereafter, the manufacturer has paid the fee required by subsection (g) of this section; and

(B) beginning July 1, 2011, and annually thereafter, if the manufacturer is covered under the standard plan, the manufacturer has paid the fee required by subsection (h) of this section.

(3) the covered electronic device is labeled with the manufacturer's brand or registered trademark and the label or trademark is permanently affixed and readily visible.

(b) Manufacturer registration requirements.

(1) The manufacturer shall file a registration form with the secretary. The secretary shall provide the registration form to a manufacturer. The registration form shall include:

(A) a list of the manufacturer's brands of covered electronic devices offered for sale by the manufacturer in this state;

(B) the name, address, and contact information of a person responsible for ensuring the manufacturer's compliance with this chapter;

(C) beginning July 1, 2011 and annually thereafter, a certification that the manufacturer is seeking coverage under the standard plan set forth under subsection (a) of this section or, under a plan approved under section 7554 of this title, is opting out of the standard plan; and

(D) an estimate of the aggregate total weight of the manufacturer's covered electronic devices sold during the previous program year based on national sales data. A manufacturer shall submit with the report required under this subsection a description of how the estimate was calculated. The data submitted under this subdivision shall be considered a trade secret for the purposes of subdivision 317(c)(9) of Title 1.

(2) A renewal of a registration without changes may be accomplished through notifying the agency of natural resources on a form provided by the agency.

(c) Registration prior to sale. A manufacturer who begins to sell or offer for sale covered electronic devices and has not filed a registration under this section or section 7554 of this title shall submit a registration to the agency of natural resources within ten days of beginning to sell or offer for sale covered electronic devices.

(d) Amendments to registration. A registration shall be amended within ten days after a change to any information included in the registration submitted by the manufacturer under this section.

(e) Effective date of registration. A registration is effective upon receipt by the agency of natural resources of a complete registration form and payment of fees required by this section. Registration under this chapter shall be renewed annually.

(f) Agency review of registration application. The agency of natural resources shall notify the manufacturer of any required information that is omitted from the registration. Upon receipt of a notification from the agency, the manufacturer shall submit a revised registration providing the information noted by the agency.

(g)(1) Registration fee. Each manufacturer of a covered electronic device registered under this section shall pay to the secretary a fee:

(A) For the program year beginning July 1, 2010, for manufacturers who sell in Vermont no more than 100 covered electronic devices, the fee shall be $1,250.00 and for all other manufacturers, the fee shall be $5,000.00.

(B) For the program year beginning July 1, 2011 and annually thereafter, the fee shall be determined by multiplying the manufacturer's market share by the cost to the agency of administering the electronic waste collection program under this chapter.

(2) The fees collected under this subsection shall be deposited into the electronic waste collection and recycling account of the waste management assistance fund.

(h) Implementation fee.

(1) For the program year of July 1, 2011, through June 30, 2012, each manufacturer that seeks coverage under the standard plan shall pay to the secretary an implementation fee that shall be assessed on a quarterly basis and that shall be determined by multiplying the manufacturer's market share by the prior quarter's cost of implementing the electronic waste collection and recycling program adopted under the standard plan. For purposes of this section, the electronic waste and recycling program includes collection, transportation, recycling, and the reasonable cost of contract administration.

(2) Beginning with the program year starting July 1, 2012, a proposed methodology for calculating the implementation fee for manufacturers seeking coverage under the standard plan shall be included in the executive branch fee report and approved by the general assembly according to the requirements of subchapter 6 of chapter 7 of Title 32.

(3) The fee collected under this subsection shall be deposited into the electronic waste collection and recycling account of the waste management assistance fund.

(4) For purposes of reimbursing the solid waste management account in

full for all funds transferred to the electronic waste collection and recycling assistance account for implementation of the electronic waste collection and recycling program, the secretary, under subdivision (1) or (2) of this subsection, may assess against a manufacturer registered and operating under the standard plan set forth in section 7552 of this title a charge in addition to the manufacturer's prorated share of the costs of implementing the electronic waste collection and recycling program.

(5) At the end of each program year, the secretary shall review the total costs of collection and recycling for the program year and shall reapportion the implementation fee assessed under this subsection to accurately reflect the manufacturer's actual market share of covered electronic devices sold in the state during the program year.

§ 7554. MANUFACTURER OPT-OUT; INDIVIDUAL PLAN

(a) Opt-out of standard plan. A manufacturer or group of manufacturers may elect not to seek coverage under the standard plan established under section 7552 of this title, provided that the manufacturer or group of manufacturers complies with the requirements of subdivisions 7553(a)(1)–(3) and submits an individual plan to the secretary for approval that:

(1) Provides for each county the number of collection methods identified in the standard plan adopted under section 7552 of this title.

(2) Describes the collection, transportation, and recycling systems and service providers used, including a description of how the authority or authorized party will:

(A) Seek to use businesses within the state, including retailers, charities, processors, and collection and transportation services, to fulfill its program goal under this section;

(B) Fairly compensate collectors for providing collection services; and

(C) Fairly compensate recyclers for providing recycling services.

(3) Describes how the plan will provide service to covered entities.

(4) Describes the processes and methods used to recycle electronic waste, including a description of the processing that will be used and the facility location.

(5) Documents the audits of each recycler used in the plan and compliance with recycling standards established under section 7559 of this title.

(6) Describes the accounting and reporting systems that will be employed to track progress toward the plan's equivalent share.

(7) Includes a time line describing start-up, implementation, and progress toward milestones with anticipated results.

(8) Includes a public information campaign to inform consumers about how to recycle their electronic waste at the end of the product's life.

(b) Manufacturer program goal. An individual plan submitted under this section shall be implemented to ensure satisfaction of the manufacturer's electronic waste program goal. The electronic waste recycling program goal for a manufacturer that submits a plan under this section shall be the product of the relevant statewide recycling goal set forth in subsection 7555(a) of this title multiplied by the manufacturer's market share of covered electronic devices. A manufacturer that submits a plan under this section may only count electronic waste received from covered entities toward the program goal set forth in this section.

(c) Collection from covered entities. A manufacturer that submits a plan under this section or a collector operating on behalf of a manufacturer that submits a plan under this section shall not charge a fee to covered entities for the collection, transportation, or recycling of electronic waste.

(d) Public review and consultation. Prior to approval of a plan under this section, the agency shall make the manufacturer's proposed plan available for public review and comment for at least 30 days.

(e) Collection facilities. If a manufacturer that submits a plan under this section is required to implement a collection facility, the collection facility shall be staffed, open on an ongoing basis, and open to the public at a frequency approved by the secretary in order to meet the needs of the area being served. A collection facility implemented under this section shall be prohibited from refusing or rejecting acceptance of electronic waste delivered to the facility for recycling.

(f) Annual report. Beginning August 1, 2012, a manufacturer that submits a plan under this section shall report by August 1, and annually thereafter, to the secretary the following:

(1) the type of electronic waste collected;

(2) the aggregate total weight of electronic waste the manufacturer recycled by type during the preceding program year;

(3) a list of recyclers utilized by the manufacturer;

(4) a description of the processes and methods used to recycle the electronic waste; and

(5) a summary of the educational and outreach activities undertaken by the manufacturer.

(g)(1) Parity surcharge. A manufacturer that submits a plan under this section shall be assessed a surcharge if the lesser of the following occurs:

(A) the manufacturer accepts less than the program goal set forth in subsection (b) of this section; or

(B) the manufacturer accepts less than its market share portion of the total of electronic waste collected in the state.

(2) The surcharge shall be calculated by multiplying the average per pound of cost to the secretary for the current program year to implement the standard plan plus 20 percent by the number of additional pounds of electronic waste that should have been accepted by the manufacturer. The surcharges collected under this section shall be deposited into the electronic waste collection and recycling account of the waste management assistance fund and used to offset the costs of program implementation.

(h) Effective date of plan approval. A plan submitted under this section shall not be approved until the secretary determines that the plan will provide a functionally equivalent level of electronic waste collection and recycling as the standard plan and that all the requirements of this section have been met.

(i) Amendments to plan. An amendment to an individual plan approved under this section shall not take effect until approved by the secretary.

(j) Opt-in to standard plan. At the completion of any program year, a manufacturer approved under this section may seek coverage under the standard plan adopted under section 7552 of this title.

§ 7555. STATEWIDE RECYCLING GOAL

(a) Statewide recycling goal.

(1) For the program year of July 1, 2011, to June 30, 2012, the statewide recycling goal for electronic waste shall be the product of the U.S. Census Bureau's 2010 population estimate for the state multiplied by 5.5 pounds.

(2) For the program year of July 1, 2012, to June 30, 2013, the statewide recycling goal for electronic waste shall be the product of the U.S. Census Bureau's 2010 population estimate for the state multiplied by 6.0 pounds.

(3) For the program year of July 1, 2013, to June 30, 2014, and annually thereafter, the statewide recycling goal for all electronic waste shall be the product of the base weight multiplied by the goal attainment percentage.

(b) Base weight. For purposes of this section, "base weight" means the average weight of all electronic waste reported as collected under this chapter reported as collected under this chapter during the previous two program years.

(c) Goal attainment percentage. For purposes of this section, "goal

attainment percentage" means, for each type of product:

(1) 90 percent if the base weight is less than 90 percent of the statewide recycling goal for the previous calendar year;

(2) 95 percent if the base weight is 90 percent or greater, but not more than 95 percent of the statewide recycling goal for the previous calendar year;

(3) 100 percent if the base weight is 95 percent or greater, but not more than 105 percent of the statewide recycling goal for the previous calendar year;

(4) 105 percent if the base weight is 105 percent or greater, but not more than 110 percent of the statewide recycling goal for the previous calendar year; or

(5) 110 percent if the base weight is 110 percent or greater of the statewide recycling goal.

§ 7556. RETAILER OBLIGATIONS

(a) Sale prohibited. Beginning July 1, 2010, no retailer shall sell or offer for sale a covered electronic device unless the covered electronic device is labeled by the manufacturer as required by subdivision 7553(a)(3) of this title, and the retailer has reviewed the website required in subdivision 7559(6) of this title to determine that the labeled manufacturers of all new covered electronic devices that the retailer is offering for sale are registered with the agency of natural resources.

(b) Expiration or revocation of manufacturer registration. A retailer shall not be responsible for an unlawful sale under this subdivision if the manufacturer was not registered or the manufacturer's registration expired or was revoked if the retailer took possession of the covered electronic device prior to July 1, 2010 or prior to the expiration or revocation of the manufacturer's registration, and the unlawful sale occurred within six months after the expiration or revocation.

(c) Customer information. Beginning July 1, 2011, a retailer who sells new covered electronic devices shall provide information to customers describing where and how they may recycle electronic waste and advising them of opportunities and locations for the convenient collection of electronic waste for the purpose of recycling. This requirement may be met by the posting of signs provided under the standard plan or a plan approved under section 7554 of this title that includes a warning that electronic waste shall not be disposed of in a solid waste facility and that provides a toll-free number or website address regarding proper disposal of covered electronic devices.

§ 7557. RECYCLER PROGRAM RESPONSIBILITY

(a)(1) Recycler registration. Beginning July 1, 2011, no person may

recycle electronic waste at a facility located within the state unless that person has submitted a registration with the agency of natural resources on a form prescribed by the agency. A registration is effective upon receipt by the agency and is valid for a period not to exceed five years. An electronics recycling facility registered under this section is not required to obtain a solid waste certification pursuant to chapter 159 of this title. Registration information shall include:

(A) the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive electronic waste;

(B) evidence that the financial assurance requirements of section 6611 of this title have been satisfied.

(2) A registration shall be amended within ten days after a change to any information included in the registration submitted by the recycler under this section.

(b) Recycler's reporting requirements. Beginning August 1, 2012, a recycler of electronic waste shall report by August 1, and annually thereafter, to the agency of natural resources on a form provided by the agency: the type of electronic waste collected; the total weight of electronic waste recycled during the preceding program year; and whether electronic waste was collected under the standard or an approved individual plan. In the annual report, the recycler shall certify that the recycler has complied with the electronic management guidelines developed under subdivision 7559(7) of this title.

§ 7558. COLLECTOR AND TRANSPORTER PROGRAM RESPONSIBILITY

(a)(1) Collector and transporter registration. Beginning July 1, 2011, no person may operate as a collector or transporter of electronic waste unless that person has submitted a registration with the agency of natural resources on a form prescribed by the agency. A registration is effective upon receipt by the agency and is valid for a period not to exceed five years. An electronics collector or transporter registered under this section shall not be required to obtain a solid waste certification or a solid waste hauler permit pursuant to chapter 159 of this title.

(2) A registration shall be amended within ten days after a change to any information included in the registration submitted by the collector under this section.

(3) Beginning August 1, 2012, a collector of electronic waste shall report by August 1, and annually thereafter, to the agency of natural resources on a form provided by the agency: the type of electronic waste collected; the

total weight of electronic waste recycled during the preceding program year; and whether electronic waste was collected under the standard or an approved individual plan.

(b) Transporter reporting requirements. Beginning August 1, 2012, a transporter of electronic waste not destined for recycling in Vermont shall report annually by August 1 to the agency of natural resources the total pounds of electronic waste collected and whether electronic waste was collected under the standard or an approved individual plan.

§ 7559. AGENCY OF NATURAL RESOURCES RESPONSIBILITIES

The agency of natural resources shall:

(1) Adopt and administer the standard plan required under section 7552 of this title.

(2) Establish procedures for:

(A) the registration and certifications required under this chapter; and

(B) making the registrations and certifications required under this chapter easily available to manufacturers, retailers, and members of the public.

(3) Collect the data submitted under this chapter.

(4) Annually review data submitted under this chapter to determine whether any of the variables in the statewide recycling goal should be changed, the agency shall submit recommended changes to the senate and house committees on natural resources and energy.

(5) Beginning February 15, 2012, annually report to the senate and house committees on natural resources and energy, the house committee on ways and means, the senate committee on finance, and the senate and house committees on appropriations regarding the implementation of this chapter. Prior to submitting this report, the secretary shall share it with interested persons. For each program year, the report shall provide the total weight of electronic waste recycled. The report shall also summarize the various collection programs used to collect electronic waste; information regarding electronic waste that is being collected by persons outside a plan approved under this chapter; and information about electronic waste, if any, being disposed of in landfills in this state. The report shall include an accounting of the cost of the program, the governor's estimated budget for the program for the next relevant fiscal year, and a summary of the funding sources for the program. The agency may include in its report other information regarding the implementation of this chapter and may recommend additional incentives to increase the rate of recycling.

(6) Maintain a website that includes the names of manufacturers with

current, valid registrations; the manufacturers' brands listed in registrations filed with the agency. The agency shall update the website information within 10 days of receipt of a complete registration.

(7) In consultation with interested parties, establish guidelines for the environmentally sound management of consumer electronics, including specific requirements for collectors, transporters, and recyclers.

(8) Identify approved transporters, collectors, and recyclers.

§ 7560. ADMINISTRATION OF ELECTRONIC WASTE RECYCLING PROGRAM

(a) The secretary of natural resources may contract for implementation and administration of the standard plan required under section 7552 of this title and, in so doing, shall comply with the agency of administration's current contracting procedures.

(b) In contracting for implementation and administration of the standard plan, the secretary shall review the costs incurred by similar electronic waste collection and recycling programs in other states. The secretary in his or her discretion may reopen the standard plan if bids received in response to a request for proposal exceed the average cost of collection and recycling incurred by similar electronic waste collection and recycling programs in other states.

§ 7561. OTHER RECYCLING PROGRAMS

A municipality or other public agency may not require covered entities to use public facilities to recycle their electronic waste to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their recycling obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program recycling electronic waste in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or recycling electronic waste, provided that those persons are registered as required under this chapter.

§ 7562. MULTISTATE IMPLEMENTATION

The agency of natural resources or a contracted entity under section 7560 of this title is authorized to participate in the establishment of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

§ 7563. LIMITATIONS

If a federal law or combination of federal laws takes effect that is applicable to all covered electronic devices sold in the United States and establishes a

program for the collection and recycling or reuse of covered electronic devices that is applicable to all covered electronic devices, the agency shall evaluate whether the federal law provides a solution that is equal to or better than the program established under this chapter. The agency shall report its findings to the general assembly.

§ 7564. RULEMAKING

The secretary of natural resources may adopt rules to implement the requirements of this chapter.

Sec. 3. 10 V.S.A. § 6618 is amended to read:

§ 6618. WASTE MANAGEMENT ASSISTANCE FUND

(a) There is hereby created in the state treasury a fund to be known as the waste management assistance fund, to be expended by the secretary of the agency of natural resources. The fund shall have ~~two~~ three accounts: one for solid waste management assistance ~~and~~, one for hazardous waste management assistance, and one for electronic waste collection and recycling assistance. The hazardous waste management assistance account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the secretary, the toxics use reduction fees under subsection 6628(j) of this title, and appropriations of the general assembly. In no event shall the amount of the hazardous waste tax which is deposited to the hazardous waste management assistance account exceed 40 percent of the annual tax receipts. The solid waste management assistance account shall consist of the franchise tax on waste facilities assessed under the provisions of subchapter 13 of chapter 151 of Title 32, and appropriations of the general assembly. The electronic waste collection and recycling account shall consist of the program and implementation fees required under section 7553 of this title. All balances in the fund accounts at the end of any fiscal year shall be carried forward and remain a part of the fund accounts, except as provided in subsection (e) of this section. Interest earned by the fund shall be deposited into the appropriate fund account. Disbursements from the fund accounts shall be made by the state treasurer on warrants drawn by the commissioner of finance and management.

* * *

(d) The secretary shall annually allocate from the fund accounts the amounts to be disbursed for each of the functions described in subsections (b) ~~and~~, (c), and (f) of this section. The secretary, in conformance with the priorities established in this chapter, shall establish a system of priorities within each function when the allocation is insufficient to provide funding for all eligible applicants.

* * *

Sec. 4. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following solid waste in landfills:

* * *

(8) Banned electronic devices. After January 1, 2011, computers; peripherals; computer monitors; cathode ray tubes; televisions; printers; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; wireless telephones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (as used to charge electronic devices).

Sec. 5. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes:

* * *

(18) 10 V.S.A. chapter 164, relating to comprehensive mercury management; ~~and~~

(19) 24 V.S.A. chapter 61, subchapter 10, relating to salvage yards; and

(20) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste.

Sec. 6. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(P) chapter 166 (collection and recycling of electronic waste).

Sec. 6a. SUNSET

10 V.S.A. § 7559(5) (ANR annual report to general assembly regarding electronic waste collection and recycling program) shall be repealed February 16, 2014.

Sec. 6b. ELECTRONIC WASTE COLLECTION AND RECYCLING PROGRAM FUNDING

(a) Beginning in fiscal year 2012, the governor's proposed budget for the agency of natural resources shall include a line item, including the source of the funds, for the electronic waste collection and recycling activities required under chapter 166 of Title 10.

(b) The secretary of natural resources may transfer funds within the waste management assistance fund from the solid waste management assistance account to the electronic waste collection and recycling assistance account to pay the initial costs incurred by the agency of natural resources in the first quarter of the program year beginning July 1, 2011, in implementing the electronic waste collection and recycling requirements of chapter 166 of Title 10. In no case shall the unencumbered balance of the solid waste management assistance account following a transfer under this subsection be less than $300,000.00.

(c) On or before January 15, 2012, the secretary of natural resources shall reimburse the solid waste management account in full for all funds transferred from the solid waste management account to the environmental contingency fund under 10 V.S.A. § 6618(f) for implementation of the electronic waste collection and recycling program under chapter 166 of Title 10.

(d) On or before February 15, 2011, the secretary of natural resources shall provide the house and senate committees on natural resources, the house committee on ways and means, the senate committee on finance, and the senate and house committees on appropriations with a summary of the status of the secretary's development of the electronic waste collection and recycling standard plan under 10 V.S.A. § 7552 and of the status of any request for proposal to implement the standard plan.

Sec. 6c. ANR DISBURSEMENTS; APPROPRIATIONS

(a) In fiscal year 2011, the secretary of natural resources may authorize disbursements from the electronic waste collection and recycling account within the waste management assistance fund for the purpose of paying the costs of administering and implementing the electronic waste collection program set forth under chapter 166 of Title 10.

(b) In addition to any other funds appropriated to the agency of natural resources in fiscal year 2011, there is appropriated from the general fund to the agency $50,000.00 in fiscal year 2011 for the purpose of administering and implementing the electronic waste collection and recycling program under chapter 166 of Title 10.

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 the recycling and disposal of electronic waste".

UNFINISHED BUSINESS OF THURSDAY, FEBRUARY 25, 2010

S. 117

An act relating to the date of the primary election.

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

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

§ 2351. PRIMARY ELECTION

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

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

§ 2352. NOMINATION OF CANDIDATES PRIOR TO SPECIAL ELECTION

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

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

(a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party for any office indicated, if petitions containing the requisite number of signatures made by legal voters, in substantially the following form, are filed with the proper official, together with the person's written consent to having his or her name printed on the ballot:

I join in a petition to place on the primary ballot of the ..... party the name of ....., whose residence is in the (city), (town) of

..... in the county of ....., for the office of ..... to be voted for on Tuesday, the ..... day of ~~September~~ August, 20 .....; and I certify that I am at the present time a registered voter and am qualified to vote for a candidate for this office.

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

§ 2356. TIME FOR FILING PETITIONS

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

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

§ 2369. DETERMINING WINNER; TIE VOTES

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

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

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

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

§ 2386. TIME FOR FILING STATEMENTS

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

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

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

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

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

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

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

§ 2479. MANNER OF DISTRIBUTION

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

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

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

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

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

* * *

NEW BUSINESS

Third Reading

S. 207.

An act relating to handling of milk samples.

S. 259.

An act relating to the tuition to be paid by a designating school district.

S. 292.

An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees.

AMENDMENT TO S. 292 TO BE OFFERED BY SENATOR BROCK BEFORE THIRD READING

Senator Brock moves that the bill be amended in Sec. 5, in subsection (c) after the words "nonviolent felony probationers" by adding the following: , except those who are on probation pursuant to 23 V.S.A. § 1210(d), and in subsection (d) after the words "nonviolent felonies" by adding the following: , except those who are serving a sentence pursuant to 23 V.S.A. § 1210(d),

AMENDMENT TO S. 292 TO BE OFFERED BY SENATOR CHOATE BEFORE THIRD READING

Senator Choate moves to amend the bill by adding a Sec. 9b to read as follows:

Sec. 9b. APPROVAL FOR CLOSURE OR REDUCTION IN OPERATIONS AT CORRECTIONAL FACILITIES AND PROBATION AND PAROLE OFFICES

The secretary of administration shall not initiate plans to close any correctional facility or probation and parole office without prior approval of the general assembly if in session or the joint committee on corrections oversight and the joint fiscal committee if the general assembly has adjourned.

H. 607.

An act relating to codifying and amending the charter of the Chittenden County Transportation Authority.

Second Reading

Favorable

S. 224.

An act relating to the establishment of a paint stewardship program.

Reported favorably by Senator Snelling for the Committee on Natural Resources and Energy.

(Committee vote: 5-0-0)

S. 237.

An act relating to operational standards for salvage yards.

Reported favorably by Senator Snelling for the Committee on Natural Resources and Energy.

(Committee vote: 5-0-0)

H. 761.

An act relating to authorization of High-Speed Intercity Passenger Rail Program grants.

Reported favorably by Senator Scott for the Committee on Transportation.

(Committee vote: 5-0-0)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

(Committee vote: 7-0-0)

Favorable with Recommendation of Amendment

S. 64.

An act relating to growth center designations and appeals of such designations.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Natural Resources and Energy.

The Committee recommends that the bill be amended by striking out Secs. 2 through 4 in their entirety and inserting in lieu thereof new Secs. 2, 3 and 4 to read as follows:

Sec. 2. 24 V.S.A. § 2792 is amended to read:

§ 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD; VERMONT GROWTH CENTER BOARD

(a) A "Vermont downtown development board," also referred to as the "state board," is created to administer the provisions of this chapter, except for those responsibilities assigned under section 2793c of this title to the Vermont growth center board. The state board shall be composed of the following members, or their designees:

* * *

(c) ~~The state board shall elect its chair from among its membership.~~ A "Vermont growth center board" also referred to as the "growth center board" is created to perform those tasks assigned by section 2793c of this title. The growth center board shall be composed of the following members:

(1) The secretary of commerce and community development or, in the secretary's absence, the deputy secretary of commerce and community development, who shall serve as chair.

(2) The secretary of transportation or, in the secretary's absence, the deputy secretary of transportation.

(3) The secretary of natural resources or, in the secretary's absence, the deputy secretary of natural resources.

(4) A member of the Vermont planners association (VPA) designated by the association.

(5) A municipal officer designated by the Vermont League of Cities and Towns (VLCT) and an alternate municipal officer designated by VLCT to enable all applications to be considered by an officer from a municipality other than the applicant municipality. The alternate municipal officer may vote only when the designated municipal officer does not vote.

(6) A representative of a regional planning commission designated by the Vermont association of regional planning and development agencies (VAPDA) and an alternate representative designated by VAPDA to enable all applications to be considered by a representative from a regional planning commission other than the one to which the applicant municipality is a member. The alternate designated by VAPDA may vote only when the designated representative does not vote.

(7) Three members of the public, appointed by the governor, each of whom has professional expertise in the fields of community and land use planning, smart growth, downtown revitalization, community development, architecture, urban design, or historic preservation. Prior to making an

appointment under this subdivision, the governor shall solicit recommended appointees from groups with expertise in these fields, including the land use institute at the Vermont law school, Smart Growth Vermont, the Vermont natural resources council, the Vermont chapter of the American Society of Landscape Architects, and the Vermont chapter of the American Institute of Architects.

(d) The department of economic, housing, and community ~~affairs~~ development shall provide staff and administrative support to the state board and to the growth center board.

(e) On or before January 1, 1999, the state board shall report to the general assembly on the progress of the downtown development program.

(f) ~~In situations in which the state board is considering applications for designation as a growth center, in addition to the permanent members of the state board, membership shall include as a full voting member a member of the Vermont planners association (VPA) designated by the association; the chair of the natural resources board or a representative of the land use panel of the natural resources board designated by the chair; and a representative of a regional planning commission designated by the Vermont association of regional planning and development agencies (VAPDA) and an alternate representative designated by VAPDA to enable all applications to be considered by a representative from a regional planning commission other than the one to which the applicant municipality is a member. The alternate designated by VAPDA may vote only when the designated representative does not vote.~~ The state board shall elect its chair from among its membership.

Sec. 3. 24 V.S.A. § 2793c is amended to read:

§ 2793c. DESIGNATION OF GROWTH CENTERS

* * *

(b) Growth center designation application assistance.

(1) ~~By October 1, 2006, the~~ The chair of the land use panel of the natural resources board and the commissioner of economic, housing, and community ~~affairs~~ development jointly shall ~~constitute a planning coordination group which shall~~ develop and maintain a coordinated process to:

(A) ensure consistency between regions and municipalities regarding growth centers designation and related planning;

(B) provide municipalities with a preapplication review process ~~within the planning coordination group~~ early in the local planning process;

(C) coordinate state agency review on matters of agency interest; and

(D) provide the ~~state~~ growth center board with ongoing, coordinated

staff support and expertise in land use, community planning, and natural resources protection.

(2) This ~~program~~ process shall include the following:

(A) The preparation of a "municipal growth centers planning manual and implementation checklist" to assist municipalities and regional planning commissions to plan for growth center designation. The implementation manual shall identify state resources available to assist municipalities and shall include a checklist indicating the issues that should be addressed by the municipality in planning for growth center designation. The manual shall address other relevant topics in appropriate detail, such as: methodologies for conducting growth projections and build-out analyses; defining appropriate boundaries that are not unduly expansive; enacting plan policies and implementation bylaws that accommodate reasonable densities, compact settlement patterns, and an appropriate mix of uses within growth centers; planning for infrastructure, transportation facilities, and open space; avoiding or mitigating impacts to important natural resources and historic resources; and strategies for maintaining the rural character and working landscape outside growth center boundaries.

(B) A preapplication review process ~~that allows~~ under which municipalities ~~to~~ shall submit a preliminary application to the ~~planning coordination group~~ growth center board, consisting of a draft growth center map and a brief explanation of planning and implementation policies that the municipality anticipates ~~enacting~~ it will enact prior to submission of an application under subsection (d) of this section in order to guide development inside the growth center and maintain the rural character of the surrounding area, to the extent that it exists. ~~Department~~ This preapplication review process shall be required prior to filing of an application under subsection (d) of this section. Supported by department and land use panel staff, the growth center board shall solicit comments from state agencies regarding areas of respective agency interest; evaluate the preliminary application for conformance with the requirements of this section; identify potential issues related to the growth center boundary and implementation tools; and provide recommendations for addressing those issues through adjustment to the growth centers boundary, revisions to planned implementation tools, or consideration of alternative implementation tools. Preliminary review shall be available to municipalities while they are engaged in the municipal planning process so that recommendations may be considered prior to the adoption of the municipal plan and associated implementation measures.

(C) Ongoing assistance to the ~~state~~ growth center board to review applications for growth center designation, including coordinating review by state agencies on matters of agency interest and evaluating applications and

associated plan policies and implementation measures for conformance with the definition under subdivision 2791(12) of this title and any designation requirements established under subsection (e) of this section.

* * *

(d) Application and designation requirements. Any application for designation as a growth center shall be to the ~~state~~ growth center board and shall include a specific demonstration that the proposed growth center meets each provision of subdivisions (e)(1)(A) through (J) of this section. In addition to those provisions, each of the following shall apply:

(1) ~~a demonstration that the growth center proposal meets the definition of a growth center established in subdivision 2791(12) of this title;~~ In the event that a proposed growth center lacks one or a portion of one of the characteristics listed in subdivision 2791(12)(B) of this title, the application shall contain an explanation of the unique circumstances that prevent the growth center from possessing that characteristic and why, in the absence of that characteristic, the proposed growth center will comply with the purposes of this chapter and all other requirements of this section.

(2) Any demonstration that an application complies with subdivision (e)(1)(C) of this section shall include an analysis, with respect to each existing designated downtown or village or new town center located within the applicant municipality, of current vacancy rates, opportunities to develop or redevelop existing undeveloped or underdeveloped properties and whether such opportunities are economically viable, and opportunities to revise zoning or other applicable bylaws in a manner that would permit future development that is at a higher density than existing development.

~~(2) a~~ (3) A map and a conceptual plan for the growth center~~;~~.

~~(3) identification of important natural resources and historic resources within the proposed growth center, the anticipated impacts on those resources, and any proposed mitigation;~~

~~(4) when the secretary of agriculture, food and markets has developed guidelines in compliance with 6 V.S.A. § 8, the applicant shall demonstrate that the approved municipal plan and the regional plan both have been updated during any five year plan readoption that has taken place since the date the secretary of agriculture, food and markets developed those guidelines, have been used to identify areas proposed for agriculture, and have been designed so as to avoid the conversion of primary agricultural soils, wherever possible;~~

~~(5) a demonstration:~~

~~(A) that the applicant has a regionally confirmed planning process and an approved municipal plan, pursuant to section 4350 of this title;~~

~~(B) that the approved plan contains provisions that are appropriate to implement the designated growth center proposal;~~

~~(C) that the applicant has adopted bylaws in conformance with the municipal plan that implement the provisions in the plan that pertain to the designated growth center;~~

~~(D) that the approved plan and the implementing bylaws further the goal of retaining a more rural character in the area surrounding the growth center, to the extent that a more rural character exists, and provide reasonable protection for important natural resources and historic resources located outside the proposed growth center;~~

~~(6) a capital budget and program adopted in accordance with section 4426 of this title, together with a demonstration that existing and planned infrastructure is adequate to implement the growth center;~~

~~(7) a~~ (4) A build-out analysis and needs study that demonstrates that the growth center~~:~~

~~(A) is of an appropriate size sufficient to accommodate a majority of the projected population and development over a 20-year planning period in a manner that is consistent with the definition under subdivision 2791(12) of this title; and~~

~~(B) does not encompass an excessive area of land that would involve the unnecessary extension of infrastructure to service low-density development, or result in a scattered or low-density pattern of development at the conclusion of the 20-year planning period;~~

~~(8) a demonstration:~~

~~(A) that the growth center will support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses that is consistent with the anticipated demand for those uses within the municipality and region;~~

~~(B) that the proposed growth center growth cannot reasonably be achieved within an existing designated downtown, village center, or new town center located within the applicant municipality~~ meets the provisions of subdivision (e)(1)(J) of this section.

(e) Designation decision.

(1) Within 90 days of the receipt of a completed application, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an

opportunity for the public to be heard, the ~~state~~ growth center board formally shall designate a growth center if the ~~state~~ growth center board finds, in a written decision, that the growth center proposal meets each of the following:

(A) ~~that the~~ The growth center ~~proposal~~ meets the definition of a growth center established in subdivision 2791(12) of this title~~;~~, including planned land uses, densities, settlement patterns, infrastructure, and transportation within the center and transportation relationships to areas outside the center. In the event that a proposed growth center lacks one or a portion of one of the characteristics listed in subdivision 2791(12)(B) of this title, the growth center board shall not approve the growth center proposal unless it finds that the absence of that characteristic will not prevent the proposed growth center from complying with the purposes of this chapter and all other requirements of this section. This subdivision (A) does not confer authority to approve a growth center that lacks more than one characteristic listed in subdivision 2791(12)(B) of this title.

(B) The growth center will support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses that are consistent with the anticipated demand for those uses within the municipality and region.

(C) The growth that is proposed to occur in the growth center cannot reasonably be achieved within an existing designated downtown, village center, or new town center located within the applicant municipality.

(D) In the case of a growth center that is associated with a designated new town center, the applicable municipal bylaws provide that areas within the growth center that will be zoned predominantly for retail and office development will be located within the new town center.

(E) In the case of a growth center that is associated with a designated downtown or village center, the applicable municipal bylaws provide that, with respect to those areas within the growth center that will be located outside the designated downtown or village center and will be zoned predominantly for retail and office development:

(i) The total acreage of all such areas will be less than or equal to the total acreage of the designated downtown or village center;

(ii) Such areas will serve as a logical expansion of the designated downtown or village center through such means as sharing of infrastructure and facilities and shared pedestrian accessibility; and

(iii) Such areas will be subject to enacted land use and

development standards that will establish a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles.

~~(B) that the~~ (F) The applicant has identified important natural resources and historic resources within the proposed growth center and the anticipated impacts on those resources, and has proposed mitigation~~;~~.

~~(C) that the~~ (G) The approved municipal plan and the regional plan both have been updated during any five-year plan readoption that has taken place since the date the secretary of agriculture, food and markets has developed guidelines in compliance with 6 V.S.A. § 8, have been used to identify areas proposed for agriculture, and have been designed so as to avoid the conversion of primary agricultural soils, wherever possible~~;~~.

~~(D)~~(H)(i) ~~that the~~ The applicant has a regionally confirmed planning process and an approved municipal plan, pursuant to section 4350 of this title;

(ii) ~~that the~~ The approved plan contains provisions that are appropriate to implement the designated growth center proposal;

(iii) ~~that the~~ The applicant has adopted bylaws in conformance with the municipal plan that implement the provisions in the plan that pertain to the designated growth center, including:

(I) bylaw provisions that ensure that land development and use in the growth center will comply with smart growth principles; and

(II) with respect to residential development in the growth center, bylaw provisions that allow a residential development density that is:

(aa) at least four dwelling units per acre; and

(bb) a higher development density if necessary to conform with the historic densities and settlement patterns in residential neighborhoods located in close proximity to a designated downtown or village center which the growth center is within or to which the growth center is adjacent under subdivision 2791(12)(A)(i) or (ii) of this title; and

(iv) ~~that the~~ The approved plan and the implementing bylaws further the goal of retaining a more rural character in the areas surrounding the growth center, to the extent that a more rural character exists, and provide reasonable protection for important natural resources and historic resources located outside the proposed growth center~~;~~.

~~(E) that the~~ (I) The applicant has adopted a capital budget and program in accordance with section 4426 of this title, and that existing and planned infrastructure is adequate to implement the growth center~~;~~.

~~(F) that the~~ (J) The growth center:

(i) is of an appropriate size sufficient to accommodate a majority of the projected population and development over a 20-year planning period in a manner that is consistent with the definition under subdivision 2791(12) of this title~~, and that the growth center~~;

(ii) does not encompass an excessive area of land that would involve the unnecessary extension of infrastructure to service low-density development or result in a scattered or low-density pattern of development at the conclusion of the 20-year planning period; and

(iii) using a 20-year planning period commencing with the year of the application, is sized to accommodate each of the following:

(I) an amount of residential development that is no more than 150 percent of the projected residential growth in the municipality; and

(II) an amount of commercial or industrial development, or both, that does not exceed 100 percent of the projected commercial and industrial growth in the municipality.

~~(G)(i) that the growth center will support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses consistent with the anticipated demand for those uses within the municipality and region;~~

~~(ii) that the proposed growth center growth cannot reasonably be achieved within an existing designated downtown, village center, or new town center located within the applicant municipality.~~

(2) The growth center board, as a condition of growth center designation, may require certain regulatory changes prior to the effective date of designation. In addition, the growth center designation may be modified, suspended, or revoked if the applicant fails to achieve the required regulatory changes within a specified period of time. As an option, municipalities applying for growth center designation may make certain regulatory changes effective and contingent upon formal designation.

(3) Within 21 days of a growth center designation under subdivision (1) of this subsection, a person or entity that submitted written or oral comments to the growth center board during its consideration of the application for the designated growth center may request that the growth center board reconsider the designation. Any such request for reconsideration shall identify each specific finding of the growth center board for which reconsideration is requested and state the reasons why each such finding should be reconsidered. The filing of such a request shall stay the effectiveness of the designation until

the growth center board renders its decision on the request. On receipt of such a request, the growth center board shall promptly notify the applicant municipality of the request if that municipality is not the requestor. The growth center board shall convene at the earliest feasible date to consider the request and shall render its decision on the request within 90 days of the date on which the request was filed.

(4) Except as otherwise provided in this section, growth center designation shall extend for a period of 20 years. The ~~state~~ growth center board shall review a growth center designation no less frequently than every five years, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard. For each applicant, the ~~state~~ growth center board may adjust the schedule of review under this subsection so as to coincide with the review of the related and underlying designation of a downtown, village center, or new town center. If, at the time of the review, the ~~state~~ growth center board determines that the growth center no longer meets the standards for designation established in this section, it may take any of the following actions:

(A) require corrective action;

(B) provide technical assistance through the coordinated assistance program; or

(C) remove the growth center's designation, with that removal not affecting any of the growth center's previously awarded benefits.

~~(4)~~(5) At any time a municipality shall be able to apply to the ~~state~~ growth center board for amendment of a designated growth center or any related conditions or other matters, according to the procedures that apply in the case of an original application.

(f) Review by land use panel and issuance of Act 250 findings of fact and conclusions of law. Subsequent to growth center designation by the ~~state~~ growth center board, an applicant municipality may submit a request for findings of fact and conclusions of law under specific criteria of 10 V.S.A. § 6086(a) to the land use panel of the natural resources board for consideration in accordance with the following:

* * *

(6) The decision of the ~~state~~ growth center board pursuant to this section shall not be binding as to the criteria of 10 V.S.A. § 6086(a) in any proceeding before the panel or a district commission.

* * *

(i) Benefits from designation. A growth center designated by the ~~state~~

growth center board pursuant to this section is eligible for the following development incentives and benefits:

(1) Financial incentives.

(A) A municipality may use tax increment financing for infrastructure and improvements in its designated growth center pursuant to the provisions of Title 24 and Title 32. A designated growth center under this section shall be presumed to have met any locational criteria established in Vermont statutes for tax increment financing. The ~~state~~ growth center board may consider project criteria established under those statutes and, as appropriate, may make recommendations as to whether any of those project criteria have been met.

* * *

Sec. 4. EFFECTIVE DATES; TRANSITION; APPLICATION

(a) This section shall take effect on passage.

(b) No later than July 1, 2010, the Vermont planners association, the Vermont League of Cities and Towns, and the Vermont association of regional planning and development shall designate and the governor shall appoint the members of the Vermont growth center board described in Sec. 2 of this act, 24 V.S.A. § 2792(c)(4)–(6), that those provisions authorize them respectively to designate or appoint.

(c) Secs. 1 through 3 of this act shall take effect on September 1, 2010, and shall apply to applications for designation under 24 V.S.A § 2793c that are filed and to reviews of designations under 24 V.S.A § 2793c(e)(4) that are commenced on or after September 1, 2010. The Vermont downtown development board shall have jurisdiction in accordance with prior law to complete consideration of applications for and reviews of such designations that are pending as of September 1, 2010.

(Committee vote: 3-2-0)

S. 103.

An act relating to ignition interlock drivers' licenses.

Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Transportation.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the general assembly to require the commissioner of motor vehicles to conduct an in-depth study of the most effective and efficient

mechanisms for promoting the use of ignition interlock devices or other devices that prevent impaired driving and implementing legislation related to such devices in Vermont. The commissioner also is directed to formulate recommended legislation by January 15, 2011, to advance the general assembly's goal to pass ignition interlock legislation.

Sec. 2. LEGISLATIVE FINDINGS

The general assembly finds that:

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

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

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

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

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

Sec. 3. IGNITION INTERLOCK DEVICE STUDY

(a) The commissioner of motor vehicles, in consultation with the commissioner of corrections, the court administrator, the department of public safety, state's attorneys and sheriffs, the defender general, the attorney general, the Vermont bar association, and any other organizations or entities the commissioners deem appropriate, shall study and formulate recommended legislation authorizing use of ignition interlock devices or other devices that prevent impaired driving in Vermont. In carrying out this directive, the commissioner shall:

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

(2) Consider whether legislation should:

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

(B) authorize operation during a suspension period, and, if so, the period of "hard" suspension that must be served prior to such authorization for different classes of DUI offenders;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage, the title of the bill be amended to read:

"An act relating to the study and recommendation of ignition interlock device legislation"

(Committee vote: 5-0-0)

S. 153.

An act relating to preventing conviction of innocent persons.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT; FORENSIC LABORATORY OVERSIGHT

The general assembly finds that at this time, there is not sufficient need for a forensic laboratory oversight commission, provided the Vermont crime laboratory continues to be properly accredited.

Sec. 2. PRESERVATION OF EVIDENCE

(a)(1) It is the intent of the general assembly that on and after July 1, 2012, notwithstanding any other provision of law, any item of physical evidence containing biological material that is secured in connection with a criminal case or investigation shall be retained by the government entity having custody of the evidence for the period of time that:

(A) the statute of limitations has not expired for a crime that remains unsolved; and

(B) a person remains incarcerated, on probation or parole, or subject to registration as a sex offender in connection with a criminal case.

(2) For purposes of this section, criminal case or investigation shall include only the following offenses:

(A) arson causing death as defined in 13 V.S.A. § 501;

(B) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

(C) assault and robbery causing bodily injury as defined in 13 V.S.A. 608(c);

(D) aggravated assault as defined in 13 V.S.A. § 1024;

(E) aggravated murder as defined in 13 V.S.A. § 2311 and murder as defined in 13 V.S.A. § 2301;

(F) manslaughter as defined in 13 V.S.A. § 2304;

(G) kidnapping as defined in 13 V.S.A. § 2405;

(H) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

(I) maiming as defined in 13 V.S.A. § 2701;

(J) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

(K) aggravated sexual assault as defined in 13 V.S.A. § 3253.

(L) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c); and

(M) lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602.

(3) For purposes of this section, "biological evidence" means:

(A) a sexual assault forensic examination kit; or

(B) semen, blood, saliva, hair, skin tissue, or other identified biological material.

(b) The Vermont law enforcement advisory board shall develop a proposal for implementation of this section and present it to the senate and house committees on judiciary no later than January 15, 2011.

(c) The department of public safety, the department of buildings and general services, the police chiefs' association, and the sheriffs' association shall develop a proposal for establishing one or more facilities for retention of items of physical evidence containing biological material that is secured in connection with a criminal case or investigation. Such facilities would be available for use by all Vermont law enforcement agencies. The proposal shall be presented to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011.

Sec. 3. RECORDING CUSTODIAL INTERROGATIONS; ADMISSIBILITY OF DEFENDANT'S STATEMENT

(a) It is the intent of the general assembly that on and after July 1, 2012, a law enforcement agency shall make an audio or an audio and visual recording of any custodial interrogation of a person when it is conducted in a place of detention after the person is arrested in relation to the investigation or prosecution of a felony.

(b) The Vermont law enforcement advisory board shall develop a proposal for implementation of this section and present it to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011. The proposal shall address the costs associated with purchasing, installing, and maintaining audio and visual recording as required by this section.

Sec. 4. EYEWITNESS IDENTIFICATION BEST PRACTICES

(a) The general assembly finds that eyewitness misidentification remains the single largest contributing factor to wrongful conviction. According to the Innocence Project, there are currently 249 DNA exonerations across the nation, and in nearly 80 percent of them, there was at least one misidentification.

(b) A statewide study committee created by No. 60 of the Acts of 2007 reported that the Vermont police academy currently teaches best practices regarding eyewitness identification.

(c) To ensure that law enforcement agencies statewide are employing best practices with regard to eyewitness identification, the Vermont law enforcement advisory board shall develop a proposal to establish best practices that are well suited for Vermont and its many, small rural law enforcement agencies, including consideration of conditions for the use and administration of show-ups, use of blind administrators for lineups, proper filler selection in live or photo lineups, instructions for eyewitnesses prior to a live or photo lineup, and confidence statements from eyewitnesses. The Vermont law enforcement advisory board shall present its proposal to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011. The proposal shall address the costs associated with purchasing, installing, and maintaining audio and visual recording as required by this section.

Sec. 5. 13 V.S.A. § 4010 is amended to read:

§ 4010. GUN SILENCERS

A person who manufactures, sells ~~or~~, uses, or possesses with intent to sell or use~~,~~ an appliance known as or used for a gun silencer shall be fined $25.00 for each offense. The provisions of this section shall not prevent the use or possession of gun silencers ~~for military purposes when so used or possessed under proper military authority and restriction~~ by:

(1) a certified, full-time law enforcement officer in connection with his or her duties and responsibilities and in accordance with the policies and procedures of that officer's agency or department; or

(2) the Vermont National Guard in connection with its duties and responsibilities.

Sec. 6. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 5-0-0)

S. 171.

An act relating to nutritional labeling of food by chain restaurants.

Reported favorably with recommendation of amendment by Senator Mullin for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STATUTORY REVISION

18 V.S.A. §§ 4051–4071 shall be recodified as subchapter 1 (labeling for marketing and sale) of chapter 82 of Title 18.

Sec. 2. 18 V.S.A. chapter 82, subchapter 2 is added to read:

Subchapter 2. Menu Labeling

§ 4086. MENUS AND MENU BOARDS

(a) Except as otherwise provided in 4091 of this title, in the case of food that is a standard menu item that is offered for sale in a restaurant or similar retail food establishment that is part of a chain with 20 or more locations doing business under the same name, regardless of the type of ownership of the locations. and offering for sale substantially the same menu items, the restaurant or similar retail food establishment shall disclose the information described in subsection (b) of this section.

(b) Except as otherwise provided in section 4091 of this title, the restaurant or similar retail food establishment shall disclose in a clear and conspicuous manner:

(1) On a menu listing an item for sale:

(A) in a nutrient content disclosure statement adjacent to the name of the standard menu item, so as to be clearly associated with the standard menu item, the number of calories contained in the standard menu item, as usually prepared and offered for sale; and

(B) a succinct statement concerning suggested daily caloric intake, as specified by federal regulation or, in the absence of an applicable federal regulation, by the commissioner of health by rule, posted prominently on the menu and designed to enable the public to understand, in the context of a total daily diet, the significance of the caloric information that is provided on the menu.

(2) On a menu board, including a drive-through menu board:

(A) in a nutrient content disclosure statement adjacent to the name of the standard menu item, so as to be clearly associated with the standard menu item, the number of calories contained in the standard menu item, as usually prepared and offered for sale; and

(B) a succinct statement concerning suggested daily caloric intake, as specified by federal regulation or, in the absence of an applicable federal regulation, by the commissioner of health by rule, posted prominently on the menu board, designed to enable the public to understand, in the context of a total daily diet, the significance of the nutrition information that is provided on the menu board.

(3)(A) In a written form, available on the premises of the restaurant or similar retail establishment and to the consumer upon request, the following nutrition information:

(i) the total number of calories in each serving size or other unit of measure of the food that are:

(I) derived from any source; and

(I) derived from the total fat; and

(ii) the amount of each of the following nutrients: Total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and total protein contained in each serving size or other unit of measure;

(B) To the extent that federal statutes or regulations require disclosure of different or additional nutrition information, a restaurant or similar retail establishment that follows the federal law shall be deemed to be in compliance with the requirements of this subdivision (3).

(4) On the menu or menu board, a prominent, clear, and conspicuous statement regarding the availability of the information described in subdivision (3) of this subsection.

§ 4087. SELF-SERVICE FOOD AND FOOD ON DISPLAY

Except as otherwise provided in section 4091 of this title, in the case of food sold at a salad bar, buffet line, cafeteria line, or similar self-service facility, and for self-service beverages or food that is on display and that is visible to customers, a restaurant or similar retail food establishment shall place adjacent to each food offered a sign that lists calories per displayed food item or per serving.

§ 4088. REASONABLE BASIS

For the purposes of this chapter, a restaurant or similar retail food establishment shall have a reasonable basis for its nutrient content disclosures, including nutrient databases, cookbooks, laboratory analyses, and other reasonable means, as described in Section 101.10 of Title 21, Code of Federal Regulations, or any successor regulation, or in a related guidance of the United States Food and Drug Administration.

§ 4089. MENU VARIABILITY AND COMBINATION MEALS

Except as otherwise provided by federal law or regulation, the commissioner of health shall establish by rule, pursuant to chapter 25 of Title 3, standards for determining and disclosing the nutrient content for standard menu items that come in different flavors, varieties, or combinations, but which are listed as a single menu item, such as soft drinks, ice cream, pizza, doughnuts, or children's combination meals, through means determined by the commissioner, including ranges, averages, or other methods.

§ 4090. ADDITIONAL INFORMATION

Except as otherwise provided by federal law or regulation, if the commissioner of health determines that a nutrient, other than a nutrient required under subdivision 4086(b)(3) of this title, should be disclosed for the purpose of providing information to assist consumers in maintaining healthy dietary practices, the commissioner may require, by rule, disclosure of such nutrient in the written form required under subdivision 4086(b)(3).

§ 4091. NONAPPLICABILITY TO CERTAIN FOOD

Sections 4086 through 4090, inclusive, of this chapter shall not apply to:

(1) items that are not listed on a menu or menu board, such as condiments and other items placed on the table or counter for general use;

(2) daily specials, temporary menu items appearing on the menu for less than 60 days per calendar year, or custom orders; or

(3) such other food that is part of a customary market test appearing on the menu for less than 90 days, under terms and conditions established by federal law or regulation, if applicable; if not applicable, then under terms and conditions established by the commissioner of health by rule.

§ 4092. VOLUNTARY PROVISION OF NUTRITION INFORMATION

(a) An authorized official of any restaurant or similar retail food establishment not subject to the requirements of this chapter may elect to be subject to such requirements by registering biannually the name and address of such restaurant or similar retail food establishment with the Secretary of the U.S. Department of Health and Human Services and the commissioner of health, as specified by the Secretary by regulation and the commissioner by rule.

(b) To the extent allowed by federal law, within 120 days following the effective date of this chapter, the commissioner of health shall engage in rulemaking pursuant to chapter 25 of Title 3 specifying the terms and conditions for implementation of subsection (a) of this section.

(c) Nothing in this section shall be construed to authorize the commissioner of health to require an application, review, or licensing process for any entity to register with the Secretary pursuant to subsection (a) of this section.

§ 4093. RULEMAKING

(a) To the extent permitted under federal law, within one year after the effective date of this chapter, the commissioner of health shall adopt rules pursuant to chapter 25 of Title 3 to carry out the purposes of this chapter.

(b) In adopting rules, the commissioner shall:

(1) consider standardization of recipes and methods of preparation, reasonable variation in serving size and formulation of menu items, space on menus and menu boards, inadvertent human error, training of food service workers, variations in ingredients, and other factors, as the commissioner shall determine;

(2) specify the format and manner of the nutrient content disclosure requirements under this chapter; and

(3) reasonably align the rules, to the extent practicable, with federal and other states' laws on menu labeling.

(c) No later than January 15, 2011, the commissioner shall report to the house committee on human services and the senate committee on health and welfare a report on the commissioner's progress toward adopting rules under this section.

§ 4094. DEFINITIONS

To the extent not inconsistent with federal law, as used in this chapter:

(1) "Menu" or "menu board" means the primary writing of the restaurant or other similar retail food establishment from which a consumer makes an order selection.

(2) "Restaurant" or "other similar retail food establishment" means an establishment from which food or beverage of the type for immediate consumption is sold, whether such food is consumed on the premises or not.

(A) "Restaurant" shall not include any school, hospital, nursing home, assisted living facility, or any restaurant-like facility operated by or in connection with a school, hospital, medical clinic, nursing home, or assisted living facility providing food for students, patients, visitors, and their families.

(B) "Restaurant" shall not include grocery stores, except for separately owned food facilities to which this section otherwise applies that are located in a grocery store. For purposes of this subdivision, "grocery store" means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry. The term "grocery store" includes convenience stores.

(C) "Restaurant" shall not include any fraternal organization or any organization whose members consist solely of veterans of the armed forces of the United States.

§ 4095. ENFORCEMENT; LIABILITY; PENALTY

(a) The commissioner of health or duly authorized agents or employees who inspect restaurants and food establishments on behalf of the department of health shall be required to determine that the nutrition information required

under this subchapter is listed on the menu or menu board, and that any additional required information is available for customers upon request. If, upon inspection, the required information is not clearly visible on a menu or menu board or the additional required information is not available upon request, the commissioner or inspector shall note such fact on the inspection report and cause a corresponding reduction in points from the restaurant's or other food establishment's rating score.

(b) Nothing in this section shall be construed to create or enhance any claim, right of action, or civil liability that did not previously exist under state or federal law or to limit any claim, right of action, or civil liability that otherwise exists under state or federal law.

(c) No private right of action shall arise from this subchapter. The sole enforcement authority for this subchapter shall be the state of Vermont.

§ 4096. RELATION TO OTHER LAWS

(a) To the extent any provision of this chapter is inconsistent with or preempted by federal law or regulation, the federal provision shall apply.

(b) To the extent permitted by federal law, nothing in this chapter shall be construed to restrict the ability of cities or towns to impose labeling requirements in excess of those required by this chapter.

(Committee vote: 6-0-0)

S. 182.

An act relating to determining unemployment compensation experience rating for successor businesses.

Reported favorably with recommendation of amendment by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY

* * *

(b)(1) **Disclosure of contribution rate to successor entity.** Any individual or employing unit who in any manner succeeds to or acquires the organization, trade, or business or substantially all of the assets of any employer who has been operating ~~his or her~~ the business within two weeks prior to the acquisition, except any assets retained by the employer incident to

the liquidation of ~~his or her~~ the employer's obligations, and who thereafter continues the acquired business shall be considered to be a successor to the predecessor from whom the business was acquired and, if not already an employer before the acquisition, shall become an employer on the date of the acquisition. The commissioner shall transfer the experience-rating record of the predecessor employer to the successor employer. If the successor was not an employer before the date of acquisition, ~~his or her~~ the successor's rate of contribution for the remainder of the rate year shall be the rate applicable to the predecessor employers with respect to the period immediately preceding the date of acquisition if there was only one predecessor or there were only predecessors with identical rates. If the predecessors' rates were not identical, the commissioner shall determine a rate based on the combined experience of all the predecessor employers. If the successor was an employer before the date of acquisition, the contribution rate which was assigned to the successor for the rate year in which the acquisition occurred will remain assigned to the successor for the remainder of the rate year, after which the experience-rating record of the predecessor shall be combined with the experience rating of the successor to form the single employer experience-rating record of the successor. At any time prior to the issuance of the certificate required by subsection 1322(b) of this chapter, an employing unit shall, upon request of a potential successor, disclose to the potential successor its current experience rating record.

* * *

(Committee vote: 5-0-0)

S. 205.

An act relating to the Revised Uniform Anatomical Gift Act.

Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 151 is added to read:

CHAPTER 151. REVISED UNIFORM ANATOMICAL GIFT ACT

§ 6001. SHORT TITLE

This chapter may be cited as the "Revised Uniform Anatomical Gift Act."

§ 6002. DEFINITIONS

As used in this chapter:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual:

(A) authorized to make health care decisions on the principal's behalf by an advance directive executed pursuant to chapter 231 of this title or by a health care power of attorney executed pursuant to the laws of this or another state; or

(B) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.

(5) "Disinterested witness" means a witness other than the spouse, reciprocal beneficiary, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under section 6011 of this title.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license or nondriver identification card or an inclusion in a donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that identifies donors and complies with the provisions of section 6020 of this title.

(9) "Driver's license" means a license or permit issued by the Vermont department of motor vehicles to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Know" means to have actual knowledge.

(14) "Minor" means an individual who is under 18 years of age.

(15) "Nondriver identification card" means a nondriver identification card issued by the Vermont department of motor vehicles pursuant to 23 V.S.A. § 115.

(16) "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(21) "Procurement organization" means an eye bank, an organ procurement organization, or a tissue bank.

(22) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) "Refusal" means a record created under section 6007 of this title that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(27) "Sign" means, with the present intent to authenticate or adopt a

record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(29) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

§ 6003. APPLICABILITY

This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

§ 6004. WHO MAY MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH

Subject to section 6008 of this title, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 6005 of this title by:

(1) the donor, if the donor is an adult or if the donor is a minor and is either:

(A) emancipated; or

(B) authorized under state law to apply for a driver's license or nondriver identification card and is at least 16 years of age;

(2) an agent of the donor, unless the advance directive or other record prohibits the agent from making an anatomical gift;

(3) a parent of the donor, if the donor is an unemancipated minor; or

(4) the donor's guardian.

§ 6005. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH

(a) A donor may make an anatomical gift:

(1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or nondriver identification card;

(2) in a will;

(3) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) as provided in subsection (b) of this section.

(b) A donor or other person authorized to make an anatomical gift under section 6004 of this title may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) Revocation, suspension, expiration, or cancellation of a driver's license or nondriver identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

§ 6006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH

(a) Subject to section 6008 of this title, a donor or other person authorized to make an anatomical gift under section 6004 of this title may amend or revoke an anatomical gift by:

(1) a record signed by:

(A) the donor;

(B) the other person; or

(C) subject to subsection (b) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subdivision (a)(1)(C) of this section must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) Subject to section 6008 of this title, a donor or other person authorized to make an anatomical gift under section 6004 of this title may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

§ 6007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) a record signed by:

(A) the individual; or

(B) subject to subsection (b) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to subdivision (a)(1)(B) of this section must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) state that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) in the manner provided in subsection (a) of this section for making a refusal;

(2) by subsequently making an anatomical gift pursuant to section 6005 of this title that is inconsistent with the refusal; or

(3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in subsection 6008(h) of this title, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

§ 6008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION

(a) Except as otherwise provided in subsection (g) of this section and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 6005 of this title or an amendment to an anatomical gift of the donor's body or part under section 6006 of this title.

(b) A donor's revocation of an anatomical gift of the donor's body or part under section 6006 of this title is not a refusal and does not bar another person specified in section 6004 or 6009 of this title from making an anatomical gift of the donor's body or part under section 6005 or 6010 of this title.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 6005 of this title or an amendment to an anatomical gift of the donor's body or part under section 6006 of this title, another person may not make, amend, or revoke the gift of the donor's body or

part under section 6010 of this title.

(d) A revocation of an anatomical gift of a donor's body or part under section 6006 of this title by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 6005 or 6010 of this title.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 6004 of this title, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 6004 of this title, an anatomical gift of a part for one or more of the purposes set forth in that section is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 6005 or 6010 of this title.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

§ 6009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART

(a) Subject to subsections (b) and (c) of this section and unless barred by section 6007 or 6008 of this title, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) an agent of the decedent at the time of death who could have made an anatomical gift under subdivision 6004(2) of this title immediately before the decedent's death;

(2) the spouse of the decedent;

(3) the decedent's reciprocal beneficiary, as defined in 15 V.S.A. § 1302;

(4) adult children of the decedent;

(5) parents of the decedent;

(6) adult siblings of the decedent;

(7) adult grandchildren of the decedent;

(8) grandparents of the decedent;

(9) an adult who exhibited special care and concern for the decedent;

(10) the persons who were acting as the guardians of the person of the decedent at the time of death; and

(11) any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in subdivision (a)(1), (4), (5), (6), (7), (8), or (10) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 6011 of this title knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) of this section is reasonably available to make or to object to the making of an anatomical gift.

§ 6010. MANNER OF MAKING, AMENDING, OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART

(a) A person authorized to make an anatomical gift under section 6009 of this title may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c) of this section, an anatomical gift by a person authorized under section 6009 of this title may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under section 6009 of this title may be:

(1) amended only if a majority of the reasonably available members agree to the amending of the gift; or

(2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician

knows of the revocation.

§ 6011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT; PURPOSE OF ANATOMICAL GIFT

(a) An anatomical gift may be made to the following persons named in the document of gift:

(1) a hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;

(2) subject to subsection (b) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(3) an eye bank or tissue bank.

(b) If an anatomical gift to an individual under subdivision (a)(2) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (g) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purpose of subsection (c) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable for those purposes. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one or more specific parts is made in a

document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift shall pass in accordance with subsection (g) of this section, and the parts shall be used for transplantation or therapy, if suitable for those purposes; if not suitable for transplantation or therapy, the gift may be used for research or education.

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift shall pass in accordance with subsection (g) of this section, and the parts shall be used for transplantation or therapy, if suitable for those purposes; if not suitable for transplantation or therapy, the gift may be used for research or education.

(g) For purposes of subsections (b), (e), and (f) of this section, the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank.

(2) If the part is tissue, the gift passes to the appropriate tissue bank.

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subdivision (a)(2) of this section, passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h), inclusive, of this section, or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 6005 or 6010 of this title or if the person knows that the decedent made a refusal under section 6007 of this title that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(k) Except as otherwise provided in subdivision (a)(2) of this section, nothing in this chapter affects the allocation of organs for transplantation or therapy.

§ 6012. SEARCH AND NOTIFICATION

(a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual

who made a refusal:

(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

(2) if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subdivision (a)(1) of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

§ 6013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 6011 of this title.

§ 6014. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Vermont donor registry and any other donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to the Vermont donor registry established pursuant to section 6020 of this title to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to assess the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures

necessary to maintain the potential medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under section 6011 of this title may conduct any reasonable examination necessary to assess the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this chapter, an examination under subsection (c) or (d) of this section may include serological and blood and tissue compatibility testing, as well as an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in section 6009 of this title having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to subsection 6011(i) and section 6023 of this title, the rights of the person to which a part passes under section 6011 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 6011 of this title, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent. As used in this section, "procedures" include actual physical removal and transplantation of a part but do not include the consent, process, disposal, preservation, quality measures, storage, transportation, or research involving a part.

(j) A physician or technician may remove a donated part from the body of a

donor that the physician or technician is qualified to remove.

§ 6015. COORDINATION OF PROCUREMENT AND USE

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

§ 6016. SALE OR PURCHASE OF PARTS PROHIBITED

(a) Except as otherwise provided in subsection (b) of this section, no person shall, for valuable consideration, knowingly purchase or sell a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

(c) A person who violates subsection (a) of this section shall be imprisoned not more than five years or fined not more than $50,000.00 or both.

§ 6017. OTHER PROHIBITED ACTS

(a) No person shall, in order to obtain a financial gain, intentionally falsify, forge, conceal, deface, or obliterate a document of gift, an amendment or revocation of a document of gift, or a refusal.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than five years or fined not more than $50,000.00 or both.

§ 6018. IMMUNITY

(a) A person who acts in accordance with this chapter or with the applicable anatomical gift law of another state or attempts in good faith to do so is not liable for the act in a civil action, criminal prosecution, or administrative proceeding. An act that relies upon a document of gift in a donor registry, a signed statement by a donor in an advance directive, or a donor card shall be presumed to be in good faith.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in subdivision 6009(a)(2), (3), (4), (5), (6), (7), (8), or (9) of this title relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

§ 6019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY

(a) A document of gift is valid if executed in accordance with:

(1) this chapter;

(2) the laws of the state or country where it was executed; or

(3) the laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

§ 6020. DONOR REGISTRY

(a) The department of health shall ensure that a registry is developed and maintained to identify people who have authorized a document of gift and shall oversee the operation of the registry.

(b) The department of motor vehicles is authorized to enter into a data use agreement with an organ procurement organization for the purpose of transmitting information identifying persons who have authorized a document of gift at the time of issuance of a driver's license or driver's license renewal and incorporating such information into a donor registry maintained by the organ procurement organization. Such information shall constitute the Vermont donor registry. The department of motor vehicles may secure grants from public and private sources, and receive and disburse funds that are assigned, donated, or bequeathed to the department to cover the costs of receiving and transmitting the document of gift data. As funds become available, documents of gift may be accepted and data forwarded from persons 16 and 17 years of age and persons being issued nondriver identification cards.

(c) The Vermont donor registry shall:

(1) contain a database that includes donors who have authorized an anatomical gift and provide a mechanism for an anatomical gift to be removed from the database;

(2) be accessible to other organ procurement organizations to allow them to obtain relevant information from the donor registry to determine, at or near the time of the death of the donor or a prospective donor, whether the donor or prospective donor has authorized an anatomical gift; and

(3) be accessible 24 hours per day, seven days per week for the purposes specified in subdivisions (1) and (2) of this subsection.

(d) No later than January 15, 2011, the department of motor vehicles shall submit a report on its implementation of a data use agreement with a qualified organ procurement organization to the house and senate committees on government operations, the house committee on human services, and the senate committee on health and welfare.

(e) Personally identifiable information contained in a donor registry about a donor or prospective donor may not be used or disclosed by any organ procurement organization except with the express consent of the donor, prospective donor, or other person making the anatomical gift for any purpose other than to determine, at or near the time of the death of the donor or prospective donor, whether such donor or prospective donor has made, amended, or revoked an anatomical gift.

(f) Nothing in this section shall be construed to prohibit any person from creating or maintaining a donor registry that is not established under this section, provided that any such registry shall comply with the provisions of subsections (c) and (e) of this section.

§ 6021. [Reserved.]

§ 6022. COOPERATION BETWEEN MEDICAL EXAMINER AND PROCUREMENT ORGANIZATION

The chief medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

§ 6023. [Reserved.]

§ 6024. HONORING DONOR INTENT

A person's decision to make a donation of that person's own organ or tissue after death shall be honored. In the absence of a revocation or amendment of an anatomical gift, health care providers and procurement organizations shall act in accordance with the donor's decision and may take appropriate actions to effect the anatomical gift.

§ 6025. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 6026. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not

modify, limit, or supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Sec. 2. 15 V.S.A. § 1204(e) is amended to read:

(e) The following is a nonexclusive list of legal benefits, protections, and responsibilities of spouses, which shall apply in like manner to parties to a civil union:

* * *

(19) laws relating to the making, revoking and objecting to anatomical gifts by others under ~~18 V.S.A. § 5240~~ 18 V.S.A. § 6009;

* * *

Sec. 3. 15 V.S.A. § 1301(a) is amended to read:

(a) The purpose of this chapter is to provide two persons who are blood-relatives or related by adoption the opportunity to establish a consensual reciprocal beneficiaries relationship so they may receive the benefits and protections and be subject to the responsibilities that are granted to spouses in the following specific areas:

(1) Hospital visitation and medical decision-making under 18 V.S.A. § 1853;

(2) Decision-making relating to anatomical gifts under ~~18 V.S.A. § 5240~~ 18 V.S.A. § 6009;

* * *

Sec. 4. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(3) "Anatomical gift" shall have the same meaning as provided in subdivision ~~5238(1)~~ 6002(3) of this title.

* * *

Sec. 5. 18 V.S.A. § 9702 is amended to read:

§ 9702. ADVANCE DIRECTIVE

(a) An adult may do any or all of the following in an advance directive:

* * *

(15) make, limit, or refuse to make an anatomical gift pursuant to

chapter ~~109~~ 151 of this title;

* * *

Sec. 6. 18 V.S.A. § 9715(b) is amended to read:

(b) Nothing in this chapter shall be construed to limit or abrogate an individual's ability to create a document of anatomical gift pursuant to chapter ~~109~~ 151 of this title.

Sec. 7. 23 V.S.A. § 618a is amended to read:

§ 618a. ANATOMICAL GIFT ACT; DONOR; FORM

The commissioner shall provide a form which, upon the licensee's execution, shall serve as a document of an anatomical gift under chapter ~~109~~ 151 of Title 18. An indicator shall be placed on the license of any person who has executed an anatomical gift form in accordance with this section.

Sec. 8. 33 V.S.A. § 2302(a) is amended to read:

(a) When requested in writing by a practicing physician, licensed and resident in this state, the officer having charge of the burial shall deliver the body of a deceased person to be buried under section 2301 of this title to the physician to be used by him or her for the advancement of anatomical science, unless:

* * *

(6) The deceased person is known to have executed an anatomical gift document in accordance with the provisions of the Revised Uniform Anatomical Gift Act.

Sec. 9. REPEAL

Chapter 109 of Title 18 (Uniform Anatomical Gift Act) is repealed.

Sec. 10. EFFECTIVE DATE

This act shall take effect July 1, 2010.

(Committee vote: 5-0-0)

And that when so amended the bill ought to pass.

S. 247.

An act relating to bisphenol A.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the bill be amended as follows:

First: In Sec. 1, by adding a subdivision (7) to read:

(7) Alternatives to BPA exist, including glass, stainless steel, and aluminum bottles; BPA-free plastic containers, some of which are already used by several manufacturers of infant formula; foil packets; and powdered foods stored in cardboard boxes.

Second: In Sec. 2, 18 V.S.A. § 1512, in subdivision (a)(4), by adding a third sentence to read as follows: The term shall not include water jugs with a capacity of five or more gallons until such time as a reasonable alternative is identified by the office of the attorney general.

Third: In Sec. 3, 18 V.S.A. § 1512, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c)(1) Beginning July 1, 2012, no person or entity shall manufacture, sell, or distribute in commerce in this state any infant formula or baby food stored in a plastic container or jar that contains bisphenol A.

(2) Beginning July 1, 2014, no person or entity shall manufacture, sell, or distribute in commerce in this state any infant formula or baby food stored in a can that contains bisphenol A.

(Committee vote: 4-2-0)

S. 262.

An act relating to insurance coverage for autism diagnosis and treatment.

Reported favorably with recommendation of amendment by Senator Carris for the Committee on Finance.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Many individuals with an autism spectrum disorder require lifelong supports at an estimated cost of $3.2 million per person.

(2) A national survey of parents in 2005–2006 found that:

(A) 31 percent of children with an autism spectrum disorder had unmet needs for specific health care services;

(B) 14 percent of children with an autism spectrum disorder had forgone care;

(C) 31 percent of children with an autism spectrum disorder had difficulty receiving referrals;

(D) 38 percent of families of children with an autism spectrum disorder had financial problems caused by their child's health care;

(E) 35 percent of families of children with an autism spectrum disorder found that they needed additional income to cover their child's medical expenses;

(F) 57 percent of families of children with an autism spectrum disorder had a family member who needed to reduce or stop employment because of the child's condition;

(G) 27 percent of families of children with an autism spectrum disorder spent 10 or more hours per week providing or coordinating the child's care; and

(H) 31 percent of families of children with an autism spectrum disorder had paid at least $1,000.00 for their child's medical care during the preceding year.

(3) Information gathered through a 2008 online survey indicates similar challenges for families of children with autism spectrum disorders in Vermont, including high rates of stress, depression, economic hardship, social isolation, marital difficulties, sibling issues, impacts on extended family relationships, and job loss.

(4) Two studies in other states have documented cost savings associated with early intensive behavioral intervention, predicting savings near or above $200,000.00 per child over the course of the child's educational career.

(5) Special education information provided to the office of special education in the Vermont department of education in December 2009 included 94 early essential education students (ages three to five years) and 14 family, infant, and toddler children (ages birth to three years). Using the predicted savings from the studies in other states, the projected savings in Vermont if those 108 children received early intensive behavioral intervention would be over $20 million.

(6) Special education directors currently report spending an average of $42,500.00 per child per year for students with an autism spectrum disorder, which would total $765,000.00 per child over 18 years of education.

(7) A 2008 report to the Vermont general assembly estimated that $57 million was spent within the agency of human services and the department of education during fiscal year 2007, which the office of the Vermont state auditor found to be a fair estimate of state spending for autism services.

(8) Research strongly indicates that early detection, diagnosis, and treatment of children with autism spectrum disorders result in significant improvements in functioning for a substantial subset of young children, from

birth to age eight, who receive intensive, early intervention and treatment. Examples from studies have found:

(A) For a group of children receiving 40 hours per week of intensive, early behavioral intervention for two or more years, 47 percent achieved successful first grade performance, only 40 percent were assigned to special classes, and only 10 percent required continued, ongoing support;

(B) When the children described in subdivision (A) of this subdivision (8) were followed up on at the age of 11 and one-half years, only one child who had been in the 47 percent successful group in the first grade required more support; others were indistinguishable from their peers; and

(C) For a group of children in a separate study who received an average of 38 hours per week of intensive, early behavioral intervention for two years, 48 percent succeeded in regular first and second grade classes, demonstrated generally average academic abilities, spoke fluently, and had peers with whom they played regularly.

Sec. 2. STUDY OF COVERAGE OF APPROPRIATE SERVICES FOR CHILDREN WITH AUTISM SPECTRUM DISORDERS

(a) The department of banking, insurance, securities, and health care administration shall convene a work group to consider insurance coverage and other treatment options for children diagnosed with an autism spectrum disorder. The work group shall comprise:

(1) the commissioner of banking, insurance, securities, and health care administration or designee;

(2) the commissioner of health or designee;

(3) the commissioner of education or designee;

(4) the commissioner of mental health or designee;

(5) the commissioner for children and families or designee;

(6) the commissioner of disabilities, aging, and independent living or designee;

(7) one member of the autism task force;

(8) three parents of children with autism spectrum disorders, to be appointed by groups representing families of children with autism spectrum disorders, including:

(A) one parent of a child under the age of six;

(B) one parent of a child between the ages of six and 21; and

(C) one parent of an adult child;

(9) one provider of services to individuals with autism spectrum disorders, to be appointed by the Vermont interagency autism spectrum disorders planning advisory committee; and

(10) one representative from each of the three largest health insurers doing business in Vermont.

(b) The work group shall propose options, using insurance coverage, other means, or a combination thereof, to ensure that children who are diagnosed with an autism spectrum disorder receive the services they need at the earliest appropriate age. The work group shall identify the pros and cons and a cost estimate for each option and shall provide its recommendation to the senate committees on finance, on health and welfare, and on education and the house committees on human services, on health care, and on education by January 15, 2011.

and by changing the name of the bill to read "An act relating to a study of coverage of appropriate services for children with autism spectrum disorders"

(Committee vote: 6-0-1)

S. 263.

An act relating to job creation and economic development.

Reported favorably with recommendation of amendment by Senator Miller for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 11A V.S.A. chapter 21 is added to read:

CHAPTER 21. BENEFIT CORPORATIONS

§ 21.01. SHORT TITLE

§ 21.02. LAW APPLICABLE

§ 21.03. DEFINITIONS

§ 21.04. INCORPORATION OF A BENEFIT CORPORATION

§ 21.05. ELECTION OF EXISTING CORPORATION TO BECOME A BENEFIT CORPORATION

§ 21.06. MERGER AND SHARE EXCHANGE

§ 21.07. TERMINATION OF BENEFIT CORPORATION STATUS BY AMENDMENT OF ARTICLES OF INCORPORATION; VOTE REQUIRED

§ 21.08. CORPORATE PURPOSE

§ 21.09. STANDARD OF CONDUCT FOR DIRECTORS

§ 21.10. BENEFIT DIRECTOR

§ 21.11. STANDARD OF CONDUCT FOR OFFICERS

§ 21.12. BENEFIT OFFICER

§ 21.13. RIGHT OF ACTION

§ 21.14. ANNUAL BENEFIT REPORT

§ 21.01. SHORT TITLE

This chapter shall be known and may be cited as the "Vermont Benefit Corporations Act."

§ 21.02. LAW APPLICABLE

(a) This chapter shall apply only to a domestic corporation meeting the definition of a benefit corporation in subdivision 21.03(a)(1) of this title. The provisions of this title other than those set forth in this chapter shall apply to a benefit corporation in the absence of a contrary or inconsistent provision in this chapter. A corporation whose status as a benefit corporation terminates shall immediately become subject to the obligations and rights of a general corporation as provided in this title.

(b) The existence of a provision of this chapter does not of itself create any implication that a contrary or different rule of law is or would be applicable to a corporation that is not a benefit corporation. This chapter does not affect any statute or rule of law as it applies to a corporation that is not a benefit corporation.

(c) A provision of the articles of incorporation or bylaws of a benefit corporation may not be inconsistent with any provision of this chapter.

(d) Terms that are defined in other chapters of this title shall have the same meaning when used in this chapter, except that in this chapter, "corporation" shall have the meaning set forth in section 1.40 of this title.

§ 21.03. DEFINITIONS

(a) As used in this chapter:

(1) "Benefit corporation" means a corporation as defined in section 1.40 of this title whose articles of incorporation include the statement "This corporation is a benefit corporation."

(2) "Benefit director" means the director designated as the benefit director of a benefit corporation as provided in section 21.10 of this title.

(3) "Benefit officer" means the officer of a benefit corporation, if any, designated as the benefit officer as provided in section 21.12 of this title.

(4) "General public benefit" means a material positive impact on society and the environment, as measured by a third-party standard, through activities that promote some combination of specific public benefits.

(5) "Independent" means that a person has no material relationship with a benefit corporation or any of its subsidiaries (other than the relationship of serving as the benefit director or benefit officer), either directly or as an owner or manager of an entity that has a material relationship with the benefit corporation or any of its subsidiaries. A material relationship between a person and the benefit corporation or any of its subsidiaries will be conclusively presumed to exist if:

(A) the person is, or has been within the last three years, an employee of the benefit corporation or any of its subsidiaries, other than as a benefit officer;

(B) an immediate family member of the person is, or has been within the last three years, an executive officer, other than a benefit officer, of the benefit corporation or any of its subsidiaries; or

(C) the person, or an entity of which the person is a manager or in which the person owns beneficially or of record five percent or more of the equity interests, owns beneficially or of record five percent or more of the shares of the benefit corporation.

(6) "Specific public benefit" includes:

(A) providing low income or underserved individuals or communities with beneficial products or services;

(B) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(C) preserving the environment;

(D) improving human health

(E) promoting the arts or sciences or the advancement of knowledge;

(F) increasing the flow of capital to entities with a public benefit purpose; and

(G) the accomplishment of any other identifiable benefit for society or the environment.

(7) "Subsidiary" of a person means an entity in which the person owns beneficially or of record 50 percent or more of the equity interests.

(8) "Third-party standard" means a recognized standard for defining, reporting, and assessing corporate social and environmental performance that:

(A) is developed by a person that is independent of the benefit corporation; and

(B) is transparent because the following information about the standard is publicly available:

(i) the factors considered when measuring the performance of a business;

(ii) the relative weightings of those factors; and

(iii) the identity of the persons who developed and control changes to the standard and the process by which those changes are made.

(b) For purposes of subdivisions (a)(5)(C) and (7), a percentage of ownership in an entity shall be calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

§ 21.04. INCORPORATION OF A BENEFIT CORPORATION

A benefit corporation shall be formed in accordance with sections 2.01, 2.02, 2.03, and 2.05 of this title, except that its articles of incorporation shall also contain the provision required by subdivision 21.03(a)(1) of this title to meet the definition of a benefit corporation.

§ 21.05. ELECTION OF EXISTING CORPORATION TO BECOME A BENEFIT CORPORATION

Any corporation organized under this title may become a benefit corporation by amending its articles of incorporation to add the statement required by subdivision 21.03(a)(1) of this title to meet the definition of a benefit corporation. The amendment shall be adopted and shall become effective in accordance with sections 10.01 through 10.09 of this title and shall be approved by the higher of:

(1) the vote required by the articles of incorporation; or

(2) two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

§ 21.06. MERGER AND SHARE EXCHANGE

(a) A plan of merger or share exchange that if effected would terminate the benefit corporation status of a corporation shall be adopted and shall become effective in accordance with chapter 11 of this title and shall be approved by

the higher of:

(1) the vote required by the articles of incorporation; or

(2) two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

(b) If a corporation that is not a benefit corporation is a party to a plan of merger or share exchange in which the surviving corporation is a benefit corporation, the plan of merger shall be adopted and shall become effective in accordance with chapter 11 of this title, except that the plan shall be approved in the case of the corporation that is not a benefit corporation by the higher of:

(1) the vote required by the articles of incorporation; or

(2) two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

§ 21.07. TERMINATION OF BENEFIT CORPORATION STATUS BY AMENDMENT OF ARTICLES OF INCORPORATION; VOTE REQUIRED

A corporation may terminate its status as a benefit corporation and cease to be subject to this chapter by amending its articles of incorporation to delete the provision required by subdivision 21.03(a)(1) of this title to meet the definition of a benefit corporation, in addition to the provisions required by section 2.02 of this title to be stated in the articles of incorporation of a benefit corporation. The amendment shall be adopted and shall become effective in accordance with sections 10.01 through 10.09 of this title and shall be approved by the higher of:

(1) the vote required by the articles of incorporation; or

(2) two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

§ 21.08. CORPORATE PURPOSE

(a) A benefit corporation shall have the purpose of creating general public benefit. This purpose is in addition to, and may be a limitation on, the purposes of the benefit corporation under subsection 3.01(a) of this title.

(b) The articles of incorporation of a benefit corporation may identify one or more specific public benefits that are the purpose of the benefit corporation to create in addition to its purposes under subsection 3.01(a) of this title and subsection (a) of this section. The adoption of a specific public benefit purpose under this subsection does not limit the obligation of a benefit corporation to create general public benefit.

(c) The creation of general and specific public benefit as provided in subsections (a) and (b) of this section is in the best interests of the benefit corporation.

(d) A benefit corporation may amend its articles of incorporation to add, amend, or delete a specific public benefit. The amendment shall be adopted and shall become effective in accordance with sections 10.01 through 10.09 of this title and shall be approved by the higher of the vote required by the articles of incorporation or by subsection (e) of this section.

(e) An amendment of the articles of incorporation of a benefit corporation to add, amend, or delete a specific public benefit in the articles of incorporation shall be adopted by a vote of at least two-thirds of the votes entitled to be cast by the outstanding shares of the corporation, provided that if any class of shares is entitled to vote as a group, approval shall also require the affirmative vote of the holders of at least two-thirds of the votes entitled to be cast by the outstanding shares of each voting group.

§ 21.09. STANDARD OF CONDUCT FOR DIRECTORS

(a) Each director of a benefit corporation, in discharging his or her duties as a director, including the director's duties as a member of a committee:

(1) shall, in determining what the director reasonably believes to be in the best interests of the benefit corporation, consider the effects of any action or inaction upon:

(A) the shareholders of the benefit corporation;

(B) the employees and workforce of the benefit corporation and its subsidiaries and suppliers;

(C) the interests of customers to the extent they are beneficiaries of the general or specific public benefit purposes of the benefit corporation;

(D) community and societal considerations, including those of any community in which offices or facilities of the benefit corporation or its subsidiaries or suppliers are located;

(E) the local and global environment; and

(F) the long-term and short-term interests of the benefit corporation, including the possibility that those interests may be best served by the continued independence of the benefit corporation;

(2) may consider any other pertinent factors or the interests of any other group that the director determines are appropriate to consider;

(3) shall not be required to give priority to the interests of any particular person or group referred to in subdivisions (1) or (2) of this subsection over the interests of any other person or group unless the benefit corporation has stated its intention to give priority to interests related to its specific public benefit purpose in its articles of incorporation; and

(4) shall not be subject to a different or higher standard of care when an action or inaction might affect control of the benefit corporation.

(b) The consideration of interests and factors in the manner described in subsection (a) of this section shall not constitute a violation of section 8.30 of this title.

(c) A director is not liable for the failure of a benefit corporation to create general or specific public benefit.

(d) A director is not liable to the benefit corporation or any person entitled to bring a benefit enforcement proceeding under section 21.13 of this title for any action or failure to take action in his or her official capacity if the director performed the duties of his or her office in compliance with section 8.30 of this title and with this section.

(e) A director of a benefit corporation shall have a fiduciary duty only to those persons entitled to bring a benefit enforcement proceeding against the benefit corporation under section 21.13 of this title. A director of a benefit corporation shall not have any fiduciary duty to a person who is a beneficiary of the general or specific public benefit purposes of the benefit corporation arising only from the person's status as a beneficiary.

§ 21.10. BENEFIT DIRECTOR

(a) The board of directors of a benefit corporation shall include one director who shall be designated the "benefit director" and shall have, in addition to all of the powers, duties, rights, and immunities of the other directors of the benefit corporation, the powers, duties, rights, and immunities provided in this section.

(b) The benefit director shall be elected and may be removed in the manner provided by subchapter 1 of chapter 8 of this title and shall be an individual who is independent of the benefit corporation. The benefit director may serve as the benefit officer at the same time as serving as the benefit director. The articles of incorporation or bylaws of a benefit corporation may prescribe

additional qualifications of the benefit director not inconsistent with this subsection.

(c)(1) The benefit director shall be responsible for the preparation of the annual benefit report required under section 21.14 of this title.

(2) The benefit director may retain an independent third party to audit the annual benefit report or conduct any other assessment of the benefit corporation's social and environmental performance.

(3) The benefit director shall prepare and shall include in the annual benefit report a statement whether, in the opinion of the benefit director:

(A) the benefit corporation acted in accordance with its general public benefit purpose and any specific public benefit purpose in all material respects during the period covered by the report; and

(B) the directors and officers acted in accordance with the requirements of subsection 21.09(a) and section 21.11 of this title, respectively.

(4) If in the opinion of the benefit director the benefit corporation failed to act in accordance with its general and any specific public benefit purposes or if its directors or officers failed to act in accordance with the requirements of subsection 21.09(a) and section 21.11 of this title, respectively, then the statement of the benefit director shall include a description of the ways in which the benefit corporation or its directors or officers failed to so act.

(d) The acts and omissions of an individual in the capacity of a benefit director shall constitute for all purposes acts and omissions of that individual in the capacity of a director of the benefit corporation.

(e) If the articles of incorporation of a benefit corporation that is a close corporation dispense with a board of directors pursuant to sections 20.08 and 20.09 of this title, then the articles of incorporation shall provide that the persons who perform the duties of a board of directors shall include a person with the powers, duties, rights, and immunities of a benefit director.

(f) Regardless of whether the articles of incorporation of a benefit corporation include a provision eliminating or limiting the personal liability of directors authorized by subdivision 2.02(b)(4) of this title, a benefit director shall not be personally liable for any act or omission taken in his or her official capacity as a benefit director unless the act or omission is not in good faith, involves intentional misconduct or a knowing violation of law, or involves a transaction from which the director directly or indirectly derived an improper personal benefit.

§ 21.11. STANDARD OF CONDUCT FOR OFFICERS

(a) An officer of a benefit corporation shall consider the interests and factors described in subsection 21.09(a) of this title in the manner provided in that subsection when:

(1) the officer has discretion in how to act or not act with respect to a matter; and

(2) it reasonably appears to the officer that the matter may have a material effect on:

(A) the creation of general or specific public benefit by the benefit corporation; or

(B) any of the interests or factors referred to in section 21.09(a)(1) of this title.

(b) The consideration of interests and factors in the manner described in subsection (a) of this section shall not constitute a violation of the fiduciary duty of an officer to the benefit corporation.

(c) An officer is not liable to the benefit corporation or any person entitled to bring a benefit enforcement proceeding under section 21.13 of this title for any action or failure to take action in his or her official capacity if the officer performed the duties of the position in compliance with section 8.41 of this title and with this section.

(d) An officer is not liable for the failure of a benefit corporation to create general or specific public benefit.

(e) An officer of a benefit corporation shall have a fiduciary duty only to those persons entitled to bring a benefit enforcement proceeding against the benefit corporation under section 21.13 of this title. An officer of a benefit corporation shall not have any fiduciary duty to a person that is a beneficiary of the general or specific public benefit purposes of the benefit corporation arising only from the person's status as a beneficiary.

§ 21.12. BENEFIT OFFICER

A benefit corporation may have an officer designated the "benefit officer" who shall have the authority and shall perform the duties in the management of the benefit corporation relating to the purpose of the corporation to create public benefit as set forth with respect to the office in the bylaws or, to the extent not inconsistent with the bylaws, prescribed with respect to the office by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of the office.

§ 21.13. RIGHT OF ACTION

(a) The duties of directors and officers under this chapter and the general and specific public benefit purposes of a benefit corporation may be enforced

only in a benefit enforcement proceeding, and no person may bring such an action or claim against a benefit corporation or its directors or officers except as provided in this section.

(b) A benefit enforcement proceeding may be commenced or maintained only by:

(1) a shareholder that would otherwise be entitled to commence or maintain a proceeding in the right of the benefit corporation on any basis;

(2) a director of the corporation;

(3) a person or group of persons that owns beneficially or of record 10 percent or more of the equity interests in an entity of which the benefit corporation is a subsidiary; or

(4) such other persons as may be specified in the articles of incorporation of the benefit corporation.

(c) As used in this chapter, "benefit enforcement proceeding" means a claim or action against a director or officer for:

(1) failure to pursue the general public benefit purpose of the benefit corporation or any specific public benefit purpose set forth in its articles of incorporation; or

(2) violation of a duty or standard of conduct under this chapter.

§ 21.14. ANNUAL BENEFIT REPORT

(a) A benefit corporation shall deliver to each shareholder, in a format approved by the directors, an annual benefit report, which shall include:

(1)(A) a statement of the specific goals or outcomes identified by the benefit corporation for creating general public benefit and any specific public benefit for the period of the benefit report;

(B) a description of the actions taken by the benefit corporation to attain the identified goals or outcomes and the extent to which the goals or outcomes were attained;

(C) a description of any circumstances that hindered the attainment of the identified goals or outcomes and the creation of general public benefit or any specific public benefit; and

(D) specific actions the benefit corporation can take to improve its social and environmental performance and attain the goals or outcomes identified for creating general public benefit and any specific public benefit.

(2) an assessment of the social and environmental performance of the benefit corporation prepared in accordance with a third-party standard that has

been applied consistently with prior benefit reports or accompanied by an explanation of the reasons for any inconsistent application;

(3) a statement of specific goals or outcomes identified by the benefit corporation and approved by the shareholders for creating general public benefit and any specific public benefit for the period of the next benefit report.

(4) the name of the benefit director and the benefit officer, if any, and the address to which correspondence to each of them may be directed;

(5) the compensation paid by the benefit corporation during the year to each director in that capacity;

(6) the name of each person that owns beneficially or of record five percent or more of the shares of the benefit corporation; and

(7) the statement of the benefit director described in subsection 21.10(c) of this title.

(b) A benefit corporation shall annually deliver the benefit report to each shareholder within 120 days following the end of the fiscal year of the benefit corporation or at the same time that the benefit corporation delivers any other annual report to its shareholders.

(c) After reasonable opportunity for review, the shareholders of the benefit corporation shall approve or reject the annual benefit report by majority vote at the annual meeting of shareholders or at a special meeting held for that purpose.

(d) A benefit corporation shall post its most recent benefit report endorsed by its shareholders on the public portion of its website, if any, except that the compensation paid to directors and any financial or proprietary information included in the benefit report may be omitted from the benefit report as posted. If a benefit corporation does not have a public website, it shall deliver a copy of its most recent benefit report on demand and without charge to any person who requests a copy.

Sec. 2. 11A V.S.A. § 2.02(a) is amended to read:

(a) The articles of incorporation shall set forth:

* * *

(6) one or more classes of shares that together have unlimited voting rights; ~~and~~

(7) one or more classes of shares (which may be the same class or classes as those with voting rights) that together are entitled to receive the net assets of the corporation upon dissolution; and

(8) whether the corporation is a benefit corporation under chapter 21 of this title.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

and that the title of the bill be amended to read: "An act relating to the Vermont Benefit Corporations Act"

(Committee vote: 5-0-0)

And that when so amended the bill ought to pass.

S. 266.

An act relating to rights of workers' compensation claimants.

Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. DEPARTMENT OF LABOR MISCLASSIFICATION; ENFORCEMENT PERSONNEL; FUNDING

(a) No later than August 1, 2010, the department of labor shall have a total of four limited service workers' compensation fraud investigator employees to investigate classifications and enforce the laws relating to worker, business, and job duty classifications.

(b) In addition to the percentage of premiums to be paid by employers into the workers' compensation administration fund pursuant to 21 V.S.A. § 711, employers shall pay an additional 0.055 percent to fund one of the investigator positions required pursuant to subsection (a) of this section.

Sec. 2. 13 V.S.A. § 2024 is amended to read:

§ 2024. WORKERS' COMPENSATION FRAUD; CRIMINAL PENALTIES

Any person, including an employee, employer, medical case manager, health care provider, vocational rehabilitation provider, or workers' compensation insurance carrier who, knowingly and with intent to defraud makes a false statement or representation for the purpose of obtaining, affecting, or denying any benefit or payment ~~under the provisions of chapter 9 of Title 21,~~ either for ~~her~~ herself or himself or for any other person, shall forfeit all benefits or payments obtained as a result of the false statement or representation and all or a portion of any right to compensation under the provisions of chapter 9 of Title 21 as determined by the commissioner and:

(1) For fraud involving $10,000.00 or more, be fined not more than $100,000.00 or imprisoned not more than three years, or both.

(2) For fraud involving less than $10,000.00, be fined not more than $10,000.00 or imprisoned not more than two years, or both.

Sec. 3. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; STOP WORK ORDERS

(a) **Failure to insure.** If after hearing under section 688 of this title, the commissioner determines that an employer has failed to comply with the provisions of section 687 of this title, the employer shall be assessed an administrative penalty of not more than $100.00 for every day the employer neglected to secure liability.

(b) **Stop work orders**. ~~Additionally,~~ If an employer ~~who~~ fails to comply with the provisions of section 687 of this title ~~for a period of five days~~ after ~~notice from~~ investigation by the commissioner, the commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance, unless the commissioner determines that immediate closure would cause immediate threat to the safety or health of the public, in which case the commissioner may permit work to continue for up to 72 hours after the order is issued. In addition, the employer shall be assessed an administrative penalty of not more than $250.00 for every day ~~after five days~~ that the employer fails to secure workers' compensation coverage as required in section 687 of this title. ~~The~~ When a stop work order is issued, the commissioner ~~may, after giving notice and after the expiration of the five-day period,~~ shall post a notice at a conspicuous place on the ~~premises~~ worksite of the employer informing the employees that their employer ~~has~~ failed to comply with the provisions of section 687 of this title and ~~ordering the premises closed~~ that work at the worksite has been ordered to cease until workers' compensation insurance is secured. The stop work order shall be rescinded as soon as the commissioner determines that the employer is in compliance with section 687 of this title.

(c) ~~If any employer fails to secure or retain workers' compensation insurance within two years after receiving an order to obtain insurance or a notice that the commissioner intends to order the premises closed as described in subsection (b) of this section, without further notice, the commissioner shall order the premises of that employer closed and that all business operations cease until the employer has secured workers' compensation insurance.~~

Penalty for violation of stop work order. An employer who violates a stop work order described in subsection (b) of this section is subject to

(1) A civil penalty of not more than $5,000.00 for the first violation and

a civil penalty of not more than $10,000.00 for a second or subsequent violation; or

(2) A criminal fine of not more than $10,000.00 or imprisonment for not more than 30 days, or both.

Sec. 4. 4 V.S.A. § 1102(b) is amended to read:

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

* * *

(19) Violations of 21 V.S.A. § 692(c)(1).

Sec. 5. 21 V.S.A. § 708 is amended to read:

§ 708. PENALTY FOR FALSE REPRESENTATIONS

(a) Action by the commissioner of labor. A person who willfully makes a false statement or representation, for the purpose of obtaining any benefit or payment under the provisions of this chapter, either for ~~her~~ herself or himself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than $5,000.00 ~~total~~, and shall forfeit all or a portion of any right to compensation under the provisions of this chapter, as determined to be appropriate by the commissioner after a determination by the commissioner that the person has willfully made a false statement or representation of a material fact.

(b) When the department of labor has sufficient reason to believe that an employer has made a false statement or representation for the purpose of obtaining a lower workers' compensation premium, the department shall refer the alleged violation to the commissioner of banking, insurance, securities, and health care administration for the commissioner's consideration of enforcement pursuant to 8 V.S.A. § 3661(c).

(c) Any penalty assessed or order issued under this chapter or 8 V.S.A. § 3661 shall continue in effect against any successor employer that has one or more of the same principals or corporate officers as the employer against which the penalties were assessed or order issued and is engaged in the same or similar business.

(d) Notwithstanding the assessment of an administrative penalty under this section, a person may be prosecuted under 13 V.S.A. § 2024.

Sec. 6. 21 V.S.A. § 1314 is amended to read:

§ 1314. —REPORTS AND RECORDS; FAILURE TO REPORT EMPLOYMENT INFORMATION

* * *

(h) Any employing unit ~~which~~ that fails to report employment and separation information with respect to a claimant and wages paid to a claimant required under subsection (b) of this section shall be subject to a penalty of ~~$35.00~~ $100.00 for each ~~such~~ report not received by the prescribed due date, which penalty shall be collected in the manner provided for the collection of contributions in section 1329 of this title and shall be paid into the contingent fund provided in section 1365 of this title. If the employing unit demonstrates that its failure was due to a reasonable cause, the commissioner may~~, in his or her discretion,~~ waive the penalty.

Sec. 7. DEPARTMENT OF LABOR; EMPLOYEE MISCLASSIFICATION REPORTING SYSTEM

The department of labor shall create and maintain an online employee misclassification reporting system. The system shall be designed to allow individuals to report suspected cases of employee misclassification, failure to have appropriate insurance coverage, and claimant fraud to the department to ensure that this information is distributed to appropriate departments and agencies.

Sec. 8. 21 V.S.A. § 710 is amended to read:

§ 710. UNLAWFUL DISCRIMINATION

* * *

(c) At the request of an individual who has alleged that an employer has made a false statement or misclassified one or more employees, the department shall not include the individual's name or contact information in any publication or public report, unless it is required by law or necessary to enable enforcement of this chapter.

(d) An employer shall not retaliate or take any other negative action against an individual because the employer knows or suspects that the individual has filed a complaint with the department or other authority, or reported a violation of this chapter, or cooperated in an investigation of misclassification, discrimination, or other violation of this chapter.

(e) The attorney general or a state's attorney may enforce the provisions of this section by restraining prohibited acts, seeking civil penalties, obtaining assurance and conducting civil investigations in accordance with the procedures established in ~~sections 2458-2461 of Title 9~~ 9 V.S.A. §§ 2458–2461 as though discrimination under this section were an unfair act in commerce.

Sec. 9. 21 V.S.A. § 1314a is amended to read:

§ 1314a. —QUARTERLY WAGE REPORTING REQUIRED

* * *

(f)(1) Any employing unit or employer ~~which~~ that fails to ~~file~~:

(A) File any report required by this section shall be subject to a penalty of ~~$35.00~~ $100.00 for each ~~such~~ report not received by the prescribed due dates~~, which~~.

(B) Properly classify an individual regarding the status of employment is subject to a penalty of not more than $5,000.00.

(2) Penalties under this subsection shall be collected in the manner provided for the collection of contributions in section 1329 of this title and shall be paid into the contingent fund provided in section 1365 of this title. If the employing unit demonstrates that its failure was due to a reasonable cause, the commissioner may waive the penalty.

* * *

Sec. 10. 21 V.S.A. § 1328 is amended to read:

§ 1328. FILING EMPLOYER QUARTERLY TAX CONTRIBUTION REPORTS; FAILURE

The commissioner shall impose a penalty of ~~$35.00~~ $100.00 for each failure by an employer to file any contribution report required under section 1322 of this title on or before the date on which the report is due, which shall be collected in the manner provided for the collection of contributions in section 1329 of this title and shall be paid into the contingent fund provided in section 1365 of this title. If the employer demonstrates that its failure was due to a reasonable cause, the commissioner may waive the penalty.

Sec. 11. 21 V.S.A. § 1369 is amended to read:

§ 1369. FALSE STATEMENTS TO AVOID ~~CHAPTER~~ UNEMPLOYMENT PROGRAM OBLIGATIONS

A person ~~shall not~~ who wilfully ~~and intentionally make~~ makes a material false statement or representation to avoid becoming or remaining subject to this chapter, or to avoid or reduce a contribution or other payment required of an employer under this chapter for either herself or himself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than $5,000.00.

Sec. 12. 21 V.S.A. § 1373 is amended to read:

§ 1373. GENERAL PENALTY; CIVIL

A person who violates a provision of this chapter or any lawful rule or regulation of the board, for which no other penalty is provided, shall be ~~fined~~ assessed an administrative penalty of not more than ~~$50.00~~ ~~or be imprisoned~~

~~not more than 30 days, or both~~ $5,000.00.

Sec. 13. EMPLOYEE MISCLASSIFICATION; INVESTIGATION AND ENFORCEMENT; INTERAGENCY REPORT

The department of banking, insurance, securities, and health care administration and the department of labor shall report on or before January 15, 2011, and again on January 15, 2012, to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs regarding their investigation and enforcement efforts as they relate to employee misclassification and the enforcement of Vermont labor standards, including all the following:

(1) The number and outcome of departmental audits and investigations.

(2) An assessment of the efficacy of the new workers' compensation fraud staff positions created in Sec. 106 of No. 54 of the Acts of 2009.

(3) The financial costs of misclassification and miscoding.

(4) The success of the employee misclassification public education and outreach program.

Sec. 14. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the commissioner and shall include the date of the proposed discontinuance ~~and~~, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice. The liability for the payments shall continue for seven days after the notice is received by the commissioner and the employee. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the commissioner determines that the discontinuance is warranted or if otherwise ordered by the commissioner. Every notice shall be reviewed by the commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, ~~upon~~ after review of all the evidence in the file, the commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by

providing additional new evidence to the department that establishes that a preponderance of all evidence now supports the claim. If the commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce ~~such~~ a repayment order in any court of law having jurisdiction ~~of the amount involved~~.

Sec. 15. 21 V.S.A. § 650 is amended to read:

§ 650. PAYMENT; AVERAGE WAGE; COMPUTATION

* * *

(e) If weekly compensation benefits or weekly accrued benefits are not paid within 21 days after becoming due and payable pursuant to an order of the commissioner, or in cases in which the overdue benefit is not in dispute, 10 percent of the overdue amount shall be added and paid to the employee, in addition to interest and any other penalties. In the case of an initial claim, benefits are due and payable upon entering into an agreement pursuant to subsection 662(a) of this title, upon issuance of an order of the commissioner pursuant to subsection 662(b) of this title, or if the employer has not denied the claim within 21 days after the claim is filed. Benefits are in dispute if the claimant has been provided actual written notice of the dispute within 21 days of the benefit being due and payable and the evidence reasonably supports the denial. Interest shall accrue and be paid on benefits that are found to be compensable during the period of nonpayment. The commissioner shall promptly review requests for payment under this section and, consistent with ~~the criteria in department rule 10.13~~ subsection 678(d) of this title, shall allow for the recovery of reasonable attorney fees associated with an employee's successful request for payment under this subsection.

(f) When benefits have been awarded or are not in dispute as provided in subsection (e) of this section, the employer shall establish a weekday on which payment shall be mailed or deposited and notify the claimant and the department of that day. The employer shall ensure that each weekly payment is mailed or deposited on or before the day established. If the benefit payment is not mailed or deposited on the day established, the employer shall pay to the claimant a late fee of $10.00 or five percent of the benefit amount, whichever is greater, for each weekly payment that is made after the established day. For the purposes of this subsection, "paid" means the payment is mailed to the claimant's mailing address or, in the case of direct deposit, transferred into the designated account. In the event of a dispute, proof of payment shall be established by affidavit.

Sec. 16. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the commissioner, the employee shall submit ~~himself or herself~~ to examination, at reasonable times and places, ~~to~~ by a duly licensed physician or surgeon designated and paid by the employer. The employee ~~shall have the right to~~ may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a ~~physician or surgeon~~ licensed health care provider designated and paid by ~~himself or herself~~ the employee present at ~~such~~ the examination. ~~Such~~ The employer may make an audio recording of the examination. The right~~, however,~~ of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit ~~himself or herself~~ to or in any way obstructs ~~such~~ the examination, ~~his or her~~ the employee's right to ~~take or~~ prosecute any proceeding under the provisions of this chapter shall be suspended until ~~such~~ the refusal or obstruction ceases, and compensation shall not be payable for the period during which ~~such~~ the refusal or obstruction continues.

Sec. 17. Sec. 32 of No. 54 of the Acts of 2009 is amended to read:

Sec. 32. WORKERS' COMPENSATION; STATE CONTRACTS; COMPLIANCE WITH DAVIS-BACON

(a) The agencies of administration and transportation shall establish procedures to assure that state contracting procedures and contracts are designed to minimize the incidents of miscoding of employees in NCCI job codes and misclassification of the status of workers as independent contractors rather than employees by state contractors on projects with a total project cost of more than $250,000.00 by requiring those contractors to provide, at a minimum, all the following:

* * *

(3) For construction and transportation projects over $250,000.00, a payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information, including confirmation that contractors, subcontractors, and independent contractors have the appropriate workers' compensation coverage for all workers at the jobsite, and similar information for the subcontractors regarding their subcontractors shall also be provided to the department of labor and to the

department of banking, insurance, securities, and health care administration, upon request, and shall be available to the public.

* * *

(c) The agencies shall assure that any state contract funded in whole or in part with American Recovery and Reinvestment Act of 2009 (ARRA) monies or any project for which the state granted, allocated, or awarded ARRA monies shall comply with the payment of Davis-Bacon wages when required by ARRA. However, in the event the applicable Davis-Bacon wages in any county have not been updated in the previous three years, the minimum state required wage for a state contract subject to Davis-Bacon wages under ARRA shall be that of the Vermont county that has most recently updated its applicable Davis-Bacon wages, provided this provision does not result in the loss of ARRA funds and is not otherwise contrary to federal law. In the event that the most recently updated Davis-Bacon wages cannot be determined due to the simultaneous updating by two or more counties, the agencies may select the minimum state-required wage for a state contract subject to Davis-Bacon wages under ARRA from among those counties.

Sec. 18. EFFECTIVE DATES

This act shall take effect on July 1, 2010, except for this section and Secs. 1, 7, 8, 14, and 17, which shall take effect on passage.

and the title shall be amended to read: "An act relating to improving compliance with workers' compensation program requirements"

(Committee vote: 4-0-1)

S. 279.

An act relating to nonunanimous jury verdicts in civil actions.

Reported favorably with recommendation of amendment by Senator Campbell for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. § 1950 is added to read:

§ 1950. NUMBER OF JURORS REQUIRED FOR A VERDICT IN A CIVIL ACTION

(a) In a civil action, the verdict or finding of at least eleven jurors out of the twelve jurors serving on a jury shall constitute the verdict or finding of the jury

(b) This section shall not affect the ability of the parties to stipulate that the jury may consist of any number less than twelve or that a verdict or a finding

of a stated majority of the jurors shall be taken as the verdict or finding of the jury as provided by Rule 48 of the Vermont Rules of Civil Procedure.

Sec. 2. REPORT FROM COURT ADMINISTRATOR

On or before January 15, 2014, the office of the court administrator shall report to the senate and house committees on judiciary on the implementation and identifiable effects of this act. The report shall address whether the number of hung juries or the average amount of damages awarded has changed since adoption of this act, whether there are any discernable impacts on the frequency and duration of medical malpractice litigation, whether there are any positive or negative impacts on the court system itself, and any appropriate recommendations, including whether this act should be repealed as provided in Sec. 3 of this act.

Sec. 3. SUNSET

On January 15, 2015, Sec. 1 of this act (nonunanimous jury verdicts in civil actions) is repealed.

(Committee vote: 4-1-0)

AMENDMENT TO S. 279 TO BE OFFERED BY SENATOR CAMPBELL ON BEHALF OF THE COMMITTEE ON JUDICIARY

Senator Campbell, on behalf of the Committee on Judiciary, moves to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. § 1950 is added to read:

§ 1950. NUMBER OF JURORS REQUIRED FOR A VERDICT IN A CIVIL ACTION

(a) In a civil action, unless the parties stipulate otherwise, the verdict or finding of the jury shall be unanimous or with not more than one juror dissenting.

(b) This section shall not affect the ability of the parties to stipulate that the jury may consist of any number less than twelve or that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury as provided by Rule 48 of the Vermont Rules of Civil Procedure.

Sec. 2. REPORT FROM COURT ADMINISTRATOR

On or before January 15, 2014, the office of the court administrator shall report to the senate and house committees on judiciary on the implementation and the identifiable effects of this act. The report shall address whether the number of hung juries or the average amount of damages awarded has changed since adoption of this act, whether there are any discernible impacts on the

frequency and duration of medical malpractice litigation, whether there are any positive or negative impacts on the court system itself, and any appropriate recommendations, including whether this act should be repealed as provided in Sec. 3 of this act.

Sec. 3. SUNSET

On January 15, 2015, Sec. 1 of this act (nonunanimous jury verdicts in civil actions) is repealed.

S. 285.

An act relating to authorizing a health insurance purchasing association for farmers.

Reported favorably with recommendation of amendment by Senator Kittell for the Committee on Agriculture.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PROMOTING HEALTH CARE COVERAGE OPTIONS FOR FARMERS

(a) In order to ensure access to affordable health care options for farmers, the agency of agriculture, food and markets, the department of banking, insurance, securities, and health care administration, and the office of Vermont health access shall develop information about the available health coverage options for farmers, including Catamount Health with assistance, the Vermont Health Access Plan, and health insurance plans available through an association. The information shall include a specific list of associations that a farmer may join, which also provide health insurance.

(b) Within 45 days from passage of this act, the agency of agriculture, food and markets shall provide information on health insurance options for farmers on its website in a prominent location, which may be through a link to the department of banking, insurance, securities, and health care administration's website.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage.

And the title shall be amended to read "An act relating to promoting health care coverage for farmers"

(Committee vote: 5-0-0)

NOTICE CALENDAR

Committee Bill for Second Reading

S. 293.

An act relating to state standards for boilers and pressure vessels.

S. 294.

An act relating to identification in electioneering communications and penalties for campaign finance violations.

S. 295.

An act relating to the creation of an agricultural development director.

S. 296.

An act relating to sale or lease of the John H. Boylan state airport.

S. 297.

An act relating to miscellaneous changes to education law.

ORDERED TO LIE

S. 99.

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

S. 110.

An act relating to sheltering livestock.

H. 331.

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Robert Kelley of Brandon - Member of the Board of Education - By Senator Flory for the Committee on Education. (1/14/10)

Steven Gurin of Barre - Member of the Vermont Educational & Health Buildings Financing Agency - By Senator Cummings for the Committee on Finance. (2/3/10)

Kenneth Gibbons of Hyde Park - Member of the Vermont Educational & Health Buildings Financing Agency - By Senator McCormack for the Committee on Finance. (2/17/10)

Sandi Murphy of Enosburg Falls - Member of the Valuation Appeals Board - By Senator Giard for the Committee on Finance. (2/24/10)

Jonathan Wood of Cambridge - Secretary of the Agency of Natural Resources - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jonathan Wood of Cambridge - Secretary of the Agency of Natural Resources - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Justin Johnson of Barre - Commissioner of the Department of Environmental Conservation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Wayne Allen Laroche of Franklin - Commissioner of the Department of Fish & Wildlife - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Peter F. Young, Jr. of Northfield - Chair of the Natural Resources Board - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jason Gibbs of Duxbury - Commissioner of the Department of Forests, Parks & Recreation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jason Gibbs of Duxbury – Commissioner of the Department of Forests, Parks & Recreation – By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Richard A. Westman of Cambridge – Commissioner of the Department of Taxes – By Senator MacDonald for the Committee on Finance. (3/16/10)

Robert Alberts of Bridport – Member of the Vermont Housing Finance Agency – By Senator Ayer for the Committee on Finance. (3/17/10)

John W. Valente of Rutland – Director of the Vermont Municipal Bond Bank – By Senator Carris for the Committee on Finance. (3/17/10)

NOTICE OF JOINT ASSEMBLY

March 18, 2010 - 10:30 A.M. - Retention of Superior Court Judges: David A. Howard and Helen Toor.

Retention of Environmental Judge: Thomas S. Durkin.