

# Journal of the House

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**Friday, April 23, 2010**

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## **Devotional Exercises**

Devotional exercises were conducted by Rep. Allison Clarkson of Woodstock.

## **Memorial Service**

The Speaker placed before the House the following name of a member of past sessions of the Vermont General Assembly who had passed away recently:

**Marion Wood Spencer    Member from Addison**  
**Sessions 1975, 1977, 1979 and 1981**

## **Bill Referred to Committee on Ways and Means**

**S. 224**

Senate bill, entitled

An act relating to the establishment of a paint stewardship program

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

## **Committee of Conference Appointed**

**S. 282**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Brennan of Colchester**  
**Rep. Aswad of Burlington**  
**Rep. Courcelle of Rutland City**

**Senate Proposal of Amendment Not Concurred in;  
Committee of Conference Requested and Appointed**

**H. 784**

The Senate proposed to the House to amend House bill, entitled

An act relating to the state's transportation program

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

Sec. 1. TRANSPORTATION PROGRAM

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

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

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

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

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

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

(5) the term "TIB funds" refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f;

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

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

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

## Sec. 2. RAIL

The following modifications are made to the rail program:

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

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

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

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

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

## Sec. 3. DEPARTMENT OF MOTOR VEHICLES

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

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

Total	24,300,470	24,226,470	-74,000
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\* \* \* Program Development \* \* \*

#### Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

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

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

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

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

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

(3) The following project has received a federal earmark and is added to program development – roadway program – roadway projects candidate list as follows:

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

#### Sec. 5. PROGRAM DEVELOPMENT – INTERSTATE BRIDGE

The following modification is made to the program development –

interstate bridge program:

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

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

#### Sec. 6. PROGRAM DEVELOPMENT – BIKE AND PEDESTRIAN FACILITIES

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

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

#### Sec. 7. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified as follows:

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

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

\* \* \* Aviation \* \* \*

#### Sec. 8. AVIATION

The following modifications are made to the aviation program:

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

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

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

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

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

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

\* \* \* Vermont Local Roads \* \* \*

#### Sec. 9. TOWN HIGHWAY – VERMONT LOCAL ROADS

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

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

\* \* \* Public Transit \* \* \*

Sec. 10. PUBLIC TRANSIT

The following modifications are made to the public transit program:

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

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

\* \* \* Personal Services Spending \* \* \*

Sec. 11. AGENCY PERSONAL SERVICES SPENDING

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

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

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

(a) The general assembly finds that the state should maximize the federal money available for transportation. It is the intent of this section to assist the state in complying with the maintenance of effort requirements in section 1201 of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, which requires the state to certify and maintain planned levels of expenditure of state funds for the types of projects funded by ARRA during the period February 17, 2009 through September 30, 2010. Failure to maintain the certified level of effort will prohibit the state from receiving additional federal funds through the August 2011 redistribution of federal aid highway and safety programs.

(b) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or

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

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

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

\* \* \* FY 2011 Transportation Infrastructure Bonds \* \* \*

Sec. 13. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

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

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

(1) the creation and funding of a debt service reserve is advisable to support the successful issuance of transportation infrastructure bonds, or the cost of preparing, issuing, and marketing the bonds is likely to exceed \$202,500.00; and

(2) the balance of the TIB fund as of the end of fiscal year 2010 is insufficient to fund a debt service reserve and to pay associated issuance costs



of the bonds,

the treasurer is authorized to increase the issue of transportation infrastructure bonds authorized in subsection (a) of this section up to a total amount of \$16,500,000.00.

Sec. 14. TRANSPORTATION INFRASTRUCTURE BONDS;  
APPROPRIATION

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

\* \* \* Transportation Infrastructure Bond Reserves \* \* \*

Sec. 15. FISCAL YEAR END 2010 TRANSPORTATION FUND SURPLUS

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

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

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

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

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

Sec. 17. CHANGE TO CONSENSUS REVENUE FORECAST

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \* Central Garage \* \* \*

Sec. 20. TRANSFER TO CENTRAL GARAGE FUND

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

Sec. 21. REPEAL

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

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

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

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

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

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

\* \* \*

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

(A) all expenditures of funds by source; and

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

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

\* \* \*

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

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

to reallocate funding for other projects except when other funding options are not available. In such case, the secretary shall notify the members of the joint transportation oversight committee and the joint fiscal office. With respect to projects in the approved transportation program, the secretary shall notify, in the district affected, the regional planning commission, the municipality, legislators, ~~and~~ members of the senate and house committees on transportation, and the joint fiscal office of any significant change in design, change in construction cost estimates requiring referral to the transportation board under ~~19 V.S.A. § section~~ 10h of this title, or any change which likely will affect the fiscal year in which the project is planned to go to construction. No project shall be cancelled without the approval of the general assembly.

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

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

§ 12b. JOINT TRANSPORTATION OVERSIGHT COMMITTEE

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

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

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

(d)(1) In coordination with the regular meetings of the joint fiscal committee, ~~the joint transportation oversight committee shall meet~~ in mid-July, mid-September, and mid-November. ~~At these meetings,~~ the secretary shall prepare a report on the status of the state's transportation finances and transportation programs, including. If a meeting of the committee is not convened on the scheduled dates of the joint fiscal committee meetings, the

secretary in advance shall transmit the report electronically to the joint fiscal office for distribution to committee members. The report shall include a report on contract bid awards versus project estimates and a detailed report on all known or projected cost overruns, project savings and funding availability from delayed projects; and the agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds with respect to:

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

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

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

\* \* \* Vermont Bridge Maintenance Program \* \* \*

#### Sec. 24. REPEAL

The following are repealed:

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

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

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

#### § 1230. CHARGE

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

#### Sec. 26. CARRY-FORWARD AUTHORITY – BRIDGE MAINTENANCE

Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, transportation fund appropriations remaining

unexpended on June 30, 2010, in the transportation – bridge maintenance appropriation (8100005400) shall be carried forward, shall be designated for expenditure in the transportation – program development appropriation (8100001100), and shall be used for the purpose of bridge maintenance.

\* \* \* Transportation Projects; Construction Claims \* \* \*

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

(d) The board shall:

\* \* \*

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

\* \* \*

\* \* \* Transportation Contracts; Procurement Standards \* \* \*

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

§ 10. DUTIES

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

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

\* \* \*



\* \* \* Cancellation of Locally Managed Projects \* \* \*

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

(d) The board shall:

\* \* \*

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

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

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

§ 309c. CANCELLATION OF LOCALLY MANAGED PROJECTS

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

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

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

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

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 § 103. DOCUMENTS REQUIRED TO BE FILED

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

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

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

\* \* \* Transportation Board; Town Reports \* \* \*

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

## § 1173. TOWN OR VILLAGE REPORTS

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

\* \* \*

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

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

## § 1025. STANDARDS

(a) The United States Department of Transportation Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) for streets and highways as amended shall be the standards for all traffic control signs, signals, and markings within the state. The latest revision of the MUTCD shall be adopted upon its effective date except in the case of projects

beyond a preliminary state of design that are anticipated to be constructed within two years of the otherwise applicable effective date; such projects may be constructed according to the MUTCD standards applicable at the design stage. Existing signs, signals, and markings shall be valid until such time as they are replaced or reconstructed. When new traffic control devices are erected or placed or existing traffic control devices are replaced or repaired the equipment, design, method of installation, placement or repair shall conform with ~~such standards~~ the MUTCD.

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

\* \* \*

\* \* \* School Zone Warning Signs \* \* \*

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

§ 921. SCHOOL ZONES

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

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

\* \* \* State Airports \* \* \*

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

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

(b) Upon accepting conveyance of the hangar building under subsection (a) of this section, the secretary of transportation shall notify the secretary of

administration so the hangar building can be added to the inventory of state-owned buildings maintained for purposes of 32 V.S.A. §§ 3701–3707.

\* \* \* State-owned Railroad Property \* \* \*

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

(b) ~~The secretary shall have authority, with the approval of the governor, to sell to any person or legal entity part or all of any parcel of state-owned railroad property or rights therein, provided that the terms of the sale are approved by the legislature or, in the event that the general assembly is not in session, by the joint fiscal committee~~ subject to the following conditions:

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

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

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

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

§ 3408. RAILBANKING; NOTIFICATION

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

\* \* \*

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

(a) The secretary of transportation, as agent for the state of Vermont, is

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

(b) The secretary, as agent for the state of Vermont, is authorized to sell to Shelburne Limestone Corporation, for fair market value, a segment of the so-called Fonda Branch of the former Central Vermont Railway, Inc. in the town of Swanton, beginning at approximate mile post 139.12, which is the northerly abutment of the railroad bridge over the Missisquoi River, and extending northerly a distance of approximately 0.58 miles to approximate mile post 139.70, which is the southwesterly line of U.S. Route 7.

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

\* \* \* Authorized Enforcement and Emergency Vehicles \* \* \*

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

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

Sec. 40. [DELETED]

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

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

§ 1251. SIRENS AND COLORED SIGNAL LAMPS; OUT-OF-STATE

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EMERGENCY AND RESCUE VEHICLES

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

(b) Notwithstanding the provisions of subsection (a) of this section, when responding to emergencies, law enforcement vehicles, ambulances, fire vehicles, or vehicles owned or leased by, or provided to, volunteer firefighters or rescue squad members, which are registered or licensed by another state or province, may use sirens and signal lamps in Vermont, and a permit shall not be required for such use, as long as the vehicle is properly permitted in its home state or province.

\* \* \* Establishing Speed Limits \* \* \*

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

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

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

(a) The traffic committee has exclusive authority to make and publish, and from time to time may alter, amend, or repeal, rules pertaining to vehicular, pedestrian, and animal traffic, ~~speed limits,~~ and the public safety on the Dwight D. Eisenhower national system of interstate and defense highways and other limited access and controlled access highways within this state. The rules and any amendments or revisions may be made by the committee only in

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accordance with chapter 25 of Title 3. The rules shall be consistent with accepted motor vehicle codes or standards, shall be consistent with law, and shall not be unreasonable or discriminatory in respect to persons engaged in like, similar, or competitive activities. The rules are applicable only to the extent that they are not in conflict with regulations or orders issued by any agency of the United States having jurisdiction and shall be drawn with due consideration for the desirability of uniformity of law of the several states of the United States.

\* \* \* Special Occasions \* \* \*

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

§ 1010. SPECIAL OCCASIONS; TOWN HIGHWAY MAINTENANCE

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

\* \* \*

\* \* \* Replacement of Gasoline Dispensers \* \* \*

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

§ 583. REPEAL OF STAGE II VAPOR RECOVERY REQUIREMENTS

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

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

\* \* \*

(4) Any existing gasoline dispensing facility that, after May 1, 2009, replaces all of its existing gasoline dispensers with ~~new~~ gasoline dispensers that support triple data encryption standard (TDES) usage or replaces one or

more of its gasoline dispensers pursuant to a plan to achieve full TDES compliance, upon verification and approval by the secretary.

\* \* \*

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

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

(a) Under the authority of 19 V.S.A. § 15(2), approval is granted for the secretary to enter into an agreement with the town of Belvidere to relinquish to the town's jurisdiction a segment of former VT Route 109 beginning at a point in the northerly right-of-way boundary of the present VT Route 109, said point also being the northerly right-of-way boundary of the former VT Route 109, being 35 feet distant northerly radially from station 73+00 of the established centerline of Highway Project Belvidere S 0282(1); thence 155 feet, more or less, southeasterly, crossing the former VT Route 109, to a point in the northerly right-of-way boundary of the present VT Route 109, said point also being in the southerly right-of-way boundary of the former VT Route 109, being 45 feet distant northerly radially from station 74+55 of the centerline; thence northeasterly, easterly, and southeasterly along the southerly right-of-way boundary of the former VT Route 109 to a point in the northerly right-of-way boundary of the present VT Route 109, being 70 feet distant northerly at right angle from station 82+15 of the centerline; thence 79 feet, more or less, northeasterly crossing the former VT Route 109 to a point in the northerly right-of-way boundary of present VT Route 109, being 92 feet distant northerly at right angle from station 82+90 of the centerline; thence northwesterly, westerly, and southwesterly along the northerly right-of-way boundary of the former VT Route 109 to the point and place of beginning.

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

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

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



the U.S. Route 5 centerline of Highway Project Hartford-Norwich I 91-2(5)).

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

(c) Pursuant to 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the town of Norwich to relinquish to the town's jurisdiction a segment of the state highway known as Norwich State Highway, beginning at the intersection of the Norwich State Highway with VT Route 10A. The relinquishment shall continue 6,071 feet (approximately 1.15 miles) northerly along the center of the Norwich State Highway to its intersection with U.S. Route 5 approximately at Norwich State Highway mile marker 1.150.

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

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

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

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

(b) Under the authority of 19 V.S.A. § 15(2), the general assembly authorizes the secretary to enter into an agreement with the town of Bennington to accept as part of the state highway system approximately 1,300 feet of VT Route 9 (Main Street [TH #2]) between mile marker 5.655, near the location of a crosswalk to be constructed under the transportation project

Bennington NH 019-1(51), and mile marker 5.901, which is the existing jurisdictional boundary between the state highway and the class 1 town highway. The agreement shall provide for the town of Bennington to be responsible for maintenance of sidewalks within the subject area.

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

Sec. 49. REPEAL

The following are repealed:

- (1) 24 V.S.A. § 5088(7) (definition of “short-range public transit plan”).
- (2) 24 V.S.A. § 5091(f) (requirement that grantees shall be eligible for funding only if a short-range public transit plan has been completed).

\* \* \* Modal Councils \* \* \*

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

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

\* \* \* Scenery Preservation Council \* \* \*

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

§ 425. SCENERY PRESERVATION COUNCIL

(a) The scenery preservation council shall:

- (1) upon request, advise and consult with organizations, municipal planning commissions or legislative bodies, or regional planning commissions concerning byway program grants and in the designation of municipal scenic roads or byways;
- (2) recommend for designation state scenic roads or byways after holding a public meeting to determine local support for designation; and
- (3) encourage and assist in fostering public awareness, understanding, and participation in the objectives and functions of scenery preservation and in stimulating public participation and interest.

~~(b) There is created within the state planning office a scenery preservation~~

~~council to advise and assist the state planning director in the performance of his duties with respect to this chapter. The scenery preservation council shall consist of ten seven members including: the secretary of the agency of natural resources, or his or her designee; the secretary of the agency of transportation and the director of the state planning office or their designees. The governor shall appoint his or her designee; and five members appointed by the governor. The speaker of the house shall appoint one member of the house as member and the committee on committees of the senate shall appoint one senator as member. The terms of the members appointed by the governor shall be for three years, except that he or she shall appoint the first members so that the terms of the members end in one year, two years, and three years. The terms of the members appointed by the speaker of the house and the committee on committees of the senate shall end on January 15 in every odd-numbered year and their successors shall be appointed at that time. The governor shall designate an appointed member to serve as chairman at the governor's pleasure. Except as provided in this section, no state employee or member of any state commission nor or any federal employee or member of any federal commission shall be eligible for membership on the scenery preservation council. Members of the council who are not full-time state employees, including members of the general assembly when the general assembly is not in session, shall be entitled to a per diem of \$30.00 as provided in 32 V.S.A. § 1010(b) and their actual necessary expenses. Only the secretary of transportation or his or her designee may call meetings of the council, and meetings shall be called only as necessary for the council to perform the functions set forth in subsection (a) of this section.~~

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

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

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

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

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

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

\* \* \*

\* \* \* Highway Condemnation Orders \* \* \*

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

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

(a) ~~Within 45~~ 30 days after the compensation hearing, the ~~transportation~~ board shall by its order fix the compensation to be paid to each person from whom land or rights are taken, ~~and~~. Within 30 days of the board's order, the agency of transportation shall file and record the order in the office of the clerk of the town where the land is situated, and shall deliver to each person or persons a copy of that portion of the order directly affecting the person or persons, and shall pay or tender the award to each person entitled which. A person to whom a compensation award is paid or tendered under this subsection may be accepted, retained and disposed accept, retain, and dispose of the award to his or her own use without prejudice to the person's right of appeal, as provided in section 513 of this title. Upon the payment or tender of the award as above provided, the agency of transportation may proceed with the work for which the land is taken.

\* \* \*

\* \* \* Traveler Information Services \* \* \*

Sec. 53. INTERSTATE 91 TRAVELER INFORMATION SERVICES FACILITY

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

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

Sec. 54. INFORMATION CENTERS; CROSS-BORDER OPPORTUNITIES

The commissioner of buildings and general services may evaluate opportunities to reach agreement with neighboring states and provinces

concerning advertising at information centers or the joint operation of information centers. The commissioner shall report findings and recommendations related to any evaluation conducted pursuant to this section to the senate and house committees on transportation by January 15, 2011.

\* \* \* Lake Champlain Bridge Facilities \* \* \*

Sec. 55. LAKE CHAMPLAIN BRIDGE FACILITIES

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

(b) The secretary of transportation and the commissioner of buildings and general services shall work together in consultation with the Division of Historic Preservation in seeking federal funds for renovations to Chimney Point State Historic Site facilities and the repair and expansion of existing fishing access facilities in connection with construction of the Lake Champlain bridge at Crown Point.

\* \* \* Official Business Directional Sign Fees \* \* \*

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

§ 501. FEES

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

\* \* \*

(2) Annual renewal fees shall be as follows:

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

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

\* \* \* Rest Area Advisory Committee \* \* \*

Sec. 57. REPEAL

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

\* \* \* Low-Bed Trailer Permits \* \* \*

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

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

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

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

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

(4) ~~This subsection shall expire on June 30, 2010. No later than January 15, 2010, the department of motor vehicles, after consultation with the agency of transportation, Vermont League of Cities and Towns, and Vermont Truck and Bus Association, shall report to the house and senate committees on transportation on the results of this two year pilot project. The report shall include recommendations on extending this provision on low bed trailers, as well as other recommendations relating to longer vehicle lengths. [Repealed.]~~

Sec. 58a. LEGISLATIVE INTENT

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

Sec. 58b. LEGISLATIVE FINDINGS

The general assembly finds that:

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

(2) As a tool to combat impaired driving, 47 states have laws concerning the use of ignition interlock devices. Ignition interlock devices are installed in motor vehicles to prevent them from being started unless the operator blows into the device and the device detects that the operator's alcohol concentration

is below a preset limit. Devices may be programmed to require periodic retesting while the car is running. About 146,000 ignition interlock devices currently are in use in the United States.

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

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

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

#### Sec. 58c. IGNITION INTERLOCK DEVICE STUDY

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

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

(2) Consider whether legislation should:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

\* \* \* Effective Dates \* \* \*

#### Sec. 59. EFFECTIVE DATES

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

(1) Sec. 12 (ARRA maintenance of effort – appropriation transfers).

(2) Sec. 13 (FY11 transportation infrastructure bonds).

(3) Sec. 15 (end FY10 transportation fund surplus).

(4) Sec. 16 (authority to transfer FY10 appropriations).

(5) Sec. 42 (speed limits).

(6) Sec. 43 (traffic committee rulemaking).

(7) Sec. 45 (replacement of gasoline dispensers). Notwithstanding 1 V.S.A. § 214, Sec. 45 shall apply retroactively to gasoline dispensers installed at an existing gasoline dispensing facility after May 1, 2009.

(8) Sec. 58 (low-bed trailer permits).

(9) Secs. 58a–58c (study and recommendation of ignition interlock device legislation).

(b) All other sections of this act not specifically enumerated in subsection (a) of this section shall take effect on July 1, 2010.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Brennan of Colchester** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**REP. Brennan of Colchester**  
**REP. Potter of Clarendon**  
**REP. Corcoran of Bennington**

**Consideration Interrupted by Recess**

**S. 88**

Senate bill, entitled

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

Was taken up and pending third reading of the bill, **Reps. Wright of Burlington, Consejo of Sheldon and Keenan of St. Albans City** moved to amend the House proposal of amendment as follows:

By striking Sec. 33 in its entirety and inserting in lieu thereof the following:

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

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

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

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

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

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

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For

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a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry; ~~and~~

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

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

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

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

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

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

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

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

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

(3) Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require manufacturers of prescribed

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products to report each allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title including:

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

(B) the name of the recipient;

(C) the recipient's address;

(D) the recipient's institutional affiliation;

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

(F) the recipient's state board number.

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

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

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

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

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

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

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

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

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

Pending the question, Shall the House propose to the Senate to amend the bill as offered by Reps. Wright of Burlington, et al? **Rep. Wright of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as offered by Reps. Wright of Burlington, et al? was decided in the negative. Yeas, 50. Nays, 86.

Those who voted in the affirmative are:

Acinapura of Brandon	Fagan of Rutland City	McFaun of Barre Town
Adams of Hartland	Geier of South Burlington	Morrissey of Bennington
Ainsworth of Royalton	Greshin of Warren	Myers of Essex
Baker of West Rutland	Higley of Lowell	Olsen of Jamaica
Branagan of Georgia	Howard of Cambridge	Pearce of Richford
Brennan of Colchester	Hubert of Milton	Peaslee of Guildhall
Canfield of Fair Haven	Johnson of Canaan	Perley of Enosburg
Clark of Vergennes	Kilmartin of Newport City	Reis of St. Johnsbury
Clerkin of Hartford	Koch of Barre Town	Rodgers of Glover
Condon of Colchester	Komline of Dorset *	Savage of Swanton
Consejo of Sheldon	Krawczyk of Bennington	Scheuermann of Stowe
Corcoran of Bennington	Larocque of Barnet	Shaw of Pittsford
Crawford of Burke	Lawrence of Lyndon	South of St. Johnsbury
Devereux of Mount Holly	Lewis of Derby	Stevens of Shoreham
Dickinson of St. Albans Town	Marcotte of Coventry	Townsend of Randolph *
Donaghy of Poultney	McAllister of Highgate	Winters of Williamstown
	McDonald of Berlin	Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Bohi of Hartford	Cheney of Norwich
Andrews of Rutland City	Botzow of Pownal	Clarkson of Woodstock
Aswad of Burlington	Bray of New Haven	Conquest of Newbury
Atkins of Winooski	Browning of Arlington	Copeland-Hanzas of Bradford *
Bissonnette of Winooski	Burke of Brattleboro	

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Courcelle of Rutland City	Lanpher of Vergennes	O'Brien of Richmond
Davis of Washington	Larson of Burlington	Obuchowski of Rockingham
Deen of Westminster	Lenes of Shelburne	Orr of Charlotte
Donovan of Burlington	Leriche of Hardwick	Partridge of Windham
Edwards of Brattleboro	Lippert of Hinesburg	Pellett of Chester
Emmons of Springfield	Lorber of Burlington	Peltz of Woodbury
Evans of Essex	Macaig of Williston	Poirier of Barre City
Fisher of Lincoln	Maier of Middlebury	Potter of Clarendon
Frank of Underhill	Malcolm of Pawlet	Pugh of South Burlington
French of Shrewsbury	Manwaring of Wilmington	Ram of Burlington
French of Randolph	Marek of Newfane	Shand of Weathersfield
Gilbert of Fairfax	Martin of Springfield	Sharpe of Bristol
Grad of Moretown	Martin of Wolcott	Stevens of Waterbury
Haas of Rochester	Masland of Thetford	Sweaney of Windsor
Head of South Burlington	McCullough of Williston	Taylor of Barre City
Heath of Westford	Milkey of Brattleboro	Till of Jericho *
Hooper of Montpelier	Miller of Shaftsbury	Toll of Danville
Howard of Rutland City	Minter of Waterbury	Webb of Shelburne
Jerman of Essex	Mitchell of Barnard	Weston of Burlington
Jewett of Ripton	Mook of Bennington	Wheeler of Derby
Johnson of South Hero	Moran of Wardsboro	Wilson of Manchester
Kitzmiller of Montpelier	Mrowicki of Putney	Wizowaty of Burlington
Klein of East Montpelier	Nease of Johnson	Young of St. Albans City
Krebs of South Hero	Nuovo of Middlebury	Zenie of Colchester

Those members absent with leave of the House and not voting are:

Audette of South Burlington	McNeil of Rutland Town	Turner of Milton
Donahue of Northfield	Morley of Barton	Waite-Simpson of Essex
Helm of Castleton	O'Donnell of Vernon	Zuckerman of Burlington
Howrigan of Fairfield	Smith of Mendon	
Keenan of St. Albans City	Spengler of Colchester	

**Rep. Copeland-Hanzas of Bradford** explained her vote as follows:

“Mr. Speaker:

We all recognize the value of drug samples that patients use to try out a new medicine. By asking the federal government to share their information with us will have no impact on the doctor-patient relationship. We have taken great pains to be sure that Vermont doctors see no change in the way they practice as a result of our bill.”

**Rep. Komline of Dorset** explained her vote as follows:

“Mr. Speaker:

We start down a dangerous road when we, as a body, become so over-confident that we ignore the voice of the very people we represent. Make no

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mistake, that is just what you are doing here. Doctors, medical health advocates and patients were not served well today.”

**Rep. Till of Jericho** explained his vote as follows:

“Mr. Speaker:

I vote no. I vote not to pharma’s misinformation campaign. This provision in the underlying bill does not restrict acceptance of samples by health care providers. It does not restrict the physician’s ability to provide samples to patients.

The section of S. 88 this amendments removes simply says that if the same information reportable to the federal government as of 1/1/2001 is not given to Vermont in a form we can analyze by the federal government. The pharmaceutical companies need to provide it directly to Vermont.

The decision to collect information about pharmaceutical marketing in the Vermont AG’s office was made nearly a decade ago. Presently, each prescriber is already listed in the A.G.’s office with a dollar amount for all the gifts received from pharmaceutical companies. The S. 88 does not include a value or dollar amount and has very specific language which protects the identity of physicians or other prescribers who accept samples. There will be no public reporting or searchable website for samples as there is for gifts presently. Information given to researchers is required in S. 88 to be deidentified. I vote against this amendment and the campaign of misinformation which has accompanied it.”

**Rep. Townsend of Randolph** explained his vote as follows:

“Mr. Speaker:

If five wolves and I lamb are deciding what to have for dinner; I think I know what the outcome will be sometimes the majority isn’t right.”

### **Recess**

At twelve o'clock noon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock and twenty minutes in the afternoon, the Speaker called the House to order.

### **Consideration Resumed; Bill Read Third Time and Passed in Concurrence with Proposal of Amendment**

#### **S. 88**

Consideration resumed on Senate bill, entitled

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

Pending third reading of the bill, **Reps. Koch of Barre, Branagan of Georgia, Scheuermann of Stowe, McDonald of Berlin, Komline of Dorset, Dickinson of St. Albans Town and Donahue of Northfield** moved to amend the House proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ALIGNMENT WITH FEDERAL HEALTH CARE REFORM

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

(b) No later than January 15, 2011, the executive director of the commission on health care reform shall report to the house committees on health care and on appropriations and the senate committees on health and welfare and on appropriations regarding the commission's findings and recommendations, including plans for maximizing federal funds and implementing proposed changes to Vermont's laws and to its health care delivery in order to participate in and receive the benefits of the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

Pending the question, Shall the House amend the House proposal of amendment as offered by Reps. Koch of Barre Town et al? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the House proposal of amendment as offered by Reps. Koch of Barre Town et al? was decided in the negative. Yeas, 40. Nays, 88.

Those who voted in the affirmative are:

Acinapura of Brandon  
Adams of Hartland  
Ainsworth of Royalton

Baker of West Rutland  
Branagan of Georgia  
Brennan of Colchester

Canfield of Fair Haven  
Clark of Vergennes  
Clerkin of Hartford



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Crawford of Burke	Komline of Dorset	Olsen of Jamaica
Devereux of Mount Holly	Krawczyk of Bennington	Pearce of Richford
Dickinson of St. Albans Town	Larocque of Barnet	Peaslee of Guildhall
Donaghy of Poultney	Lawrence of Lyndon	Perley of Enosburg
Fagan of Rutland City	Lewis of Derby	Reis of St. Johnsbury
Higley of Lowell	Marcotte of Coventry	Savage of Swanton
Howard of Cambridge	McAllister of Highgate	Scheuermann of Stowe
Hubert of Milton	McDonald of Berlin	Shaw of Pittsford
Johnson of Canaan	McFaun of Barre Town	Winters of Williamstown
Koch of Barre Town	Morrissey of Bennington	Wright of Burlington
	Myers of Essex	

Those who voted in the negative are:

Ancel of Calais	Grad of Moretown	Mook of Bennington
Andrews of Rutland City	Haas of Rochester	Moran of Wardsboro
Aswad of Burlington	Head of South Burlington	Mrowicki of Putney
Atkins of Winooski	Heath of Westford	Nease of Johnson
Bissonnette of Winooski	Hooper of Montpelier	Nuovo of Middlebury
Bohi of Hartford	Howard of Rutland City	O'Brien of Richmond
Botzow of Pownal	Jerman of Essex	Obuchowski of Rockingham
Bray of New Haven	Jewett of Ripton	Orr of Charlotte
Browning of Arlington	Johnson of South Hero	Partridge of Windham
Burke of Brattleboro	Kitzmiller of Montpelier	Pellett of Chester
Cheney of Norwich	Klein of East Montpelier	Peltz of Woodbury
Clarkson of Woodstock	Krebs of South Hero	Poirier of Barre City
Condon of Colchester	Lanpher of Vergennes	Potter of Clarendon
Conquest of Newbury	Larson of Burlington	Pugh of South Burlington
Consejo of Sheldon	Lenes of Shelburne	Ram of Burlington
Copeland-Hanzas of Bradford	Leriche of Hardwick	Rodgers of Glover
Corcoran of Bennington	Lippert of Hinesburg	Shand of Weathersfield
Courcelle of Rutland City	Lorber of Burlington	Stevens of Waterbury
Davis of Washington	Macaig of Williston	Stevens of Shoreham
Deen of Westminster	Maier of Middlebury	Sweaney of Windsor
Donovan of Burlington	Malcolm of Pawlet	Taylor of Barre City
Edwards of Brattleboro	Marek of Newfane	Till of Jericho
Emmons of Springfield	Martin of Springfield	Townsend of Randolph
Evans of Essex	Martin of Wolcott	Webb of Shelburne
Fisher of Lincoln	Masland of Thetford	Weston of Burlington
Frank of Underhill	McCullough of Williston	Wilson of Manchester
French of Shrewsbury	Milkey of Brattleboro	Wizowaty of Burlington
French of Randolph	Miller of Shaftsbury	Young of St. Albans City
Gilbert of Fairfax	Minter of Waterbury	Zenie of Colchester
	Mitchell of Barnard	

Those members absent with leave of the House and not voting are:

Audette of South Burlington	Greshin of Warren	Keenan of St. Albans City
Donahue of Northfield	Helm of Castleton	Kilmartin of Newport City
Geier of South Burlington	Howrigan of Fairfield	Manwaring of Wilmington

McNeil of Rutland Town  
Morley of Barton  
O'Donnell of Vernon  
Sharpe of Bristol

Smith of Mendon  
South of St. Johnsbury  
Spengler of Colchester  
Toll of Danville

Turner of Milton  
Waite-Simpson of Essex  
Wheeler of Derby  
Zuckerman of Burlington

Pending third reading of the bill, **Reps. Koch of Barre Town and McDonald of Berlin** moved to amend the House proposal of amendment as follows:

In Sec. 2, by inserting a new subdivision (4) to read:

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

and by renumbering the remaining subdivisions to be numerically correct

Which was agreed to.

Pending third reading of the bill, **Rep. Koch of Barre Town and McDonald of Berlin** moved to amend the House proposal of amendment as follows:

In Sec. 2 by inserting a new subdivision (5) to read:

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

and by renumbering the remaining subdivisions to be numerically correct

Which was agreed to.

¶ Pending third reading of the bill, **Rep. McDonald of Berlin** moved to amend the House proposal of amendment as follows:

In Sec. 31 as follows:

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

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

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

(15) the commissioner of labor or designee”

Which was agreed to.

Pending third reading of the bill, **Rep. Fagan of Rutland City Acinapura of Brandon, Adams of Hartland, Baker of West Rutland, Brennan of Colchester, Crawford of Burke, Devereux of Mount Holly, Helm of Castleton, Higley of Lowell, Hubert of Milton, Koch of Barre Town,**

**Komline of Dorset, McAllister of Highgate, McNeil of Rutland Town, Olsen of Jamaica, Shaw of Pittsford, and Winters of Williamstown** moved to amend the House propopsal of amendment as follows:

In Sec. 26 by striking the second sentence in its entirety.

Pending the question, Shall the House proposal of amendment be futher amended as offered by Reps. Fagan of Rutland City et al? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House proposal of amendment be futher amended as offered by Reps. Fagan of Rutland City et al? was decided in the negative. Yeas, 40. Nays, 92.

Those who voted in the affirmative are:

Acinapura of Brandon	Fagan of Rutland City	McDonald of Berlin
Adams of Hartland	Higley of Lowell	Morrissey of Bennington
Ainsworth of Royalton	Howard of Cambridge	Myers of Essex
Baker of West Rutland	Hubert of Milton	Olsen of Jamaica
Branagan of Georgia	Johnson of South Hero	Pearce of Richford
Brennan of Colchester	Kilmartin of Newport City	Peaslee of Guildhall
Canfield of Fair Haven	Koch of Barre Town *	Perley of Enosburg
Clark of Vergennes	Komline of Dorset	Reis of St. Johnsbury
Clerkin of Hartford	Krawczyk of Bennington	Savage of Swanton
Crawford of Burke	Larocque of Barnet	Scheuermann of Stowe
Devereux of Mount Holly	Lawrence of Lyndon	Shaw of Pittsford
Dickinson of St. Albans Town	Lewis of Derby	Winters of Williamstown
Donaghy of Poultney	Marcotte of Coventry	Wright of Burlington
	McAllister of Highgate	

Those who voted in the negative are:

Ancel of Calais	Courcelle of Rutland City	Hooper of Montpelier
Andrews of Rutland City	Davis of Washington	Howard of Rutland City
Aswad of Burlington	Deen of Westminster	Jerman of Essex
Atkins of Winooski	Donovan of Burlington	Jewett of Ripton
Bissonnette of Winooski	Edwards of Brattleboro	Johnson of Canaan
Bohi of Hartford	Emmons of Springfield	Kitzmiller of Montpelier
Botzow of Pownal	Evans of Essex	Klein of East Montpelier
Bray of New Haven	Fisher of Lincoln	Krebs of South Hero
Browning of Arlington	Frank of Underhill	Lanpher of Vergennes
Burke of Brattleboro	French of Shrewsbury	Larson of Burlington
Cheney of Norwich	French of Randolph	Lenes of Shelburne
Clarkson of Woodstock	Gilbert of Fairfax	Leriche of Hardwick
Condon of Colchester	Grad of Moretown	Lippert of Hinesburg
Conquest of Newbury	Greshin of Warren	Lorber of Burlington
Copeland-Hanzas of Bradford	Haas of Rochester	Macaig of Williston
Corcoran of Bennington	Head of South Burlington	Maier of Middlebury
	Heath of Westford	Malcolm of Pawlet

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Marek of Newfane *	Nuovo of Middlebury	Spengler of Colchester
Martin of Springfield	O'Brien of Richmond	Stevens of Waterbury
Martin of Wolcott	Obuchowski of Rockingham	Stevens of Shoreham
Masland of Thetford	Orr of Charlotte	Sweaney of Windsor
McCullough of Williston	Partridge of Windham	Taylor of Barre City
McFaun of Barre Town	Pellett of Chester	Till of Jericho
Milkey of Brattleboro	Peltz of Woodbury	Townsend of Randolph
Miller of Shaftsbury	Poirier of Barre City	Waite-Simpson of Essex
Minter of Waterbury	Potter of Clarendon	Webb of Shelburne
Mitchell of Barnard	Pugh of South Burlington	Weston of Burlington
Mook of Bennington	Ram of Burlington	Wilson of Manchester
Moran of Wardsboro	Rodgers of Glover	Wizowaty of Burlington
Mrowicki of Putney	Shand of Weathersfield	Young of St. Albans City
Nease of Johnson	Sharpe of Bristol	Zenie of Colchester

Those members absent with leave of the House and not voting are:

Audette of South Burlington	Keenan of St. Albans City	South of St. Johnsbury
Consejo of Sheldon	Manwaring of Wilmington	Toll of Danville
Donahue of Northfield	McNeil of Rutland Town	Turner of Milton
Geier of South Burlington	Morley of Barton	Wheeler of Derby
Helm of Castleton	O'Donnell of Vernon	Zuckerman of Burlington
Howrigan of Fairfield	Smith of Mendon	

**Rep. Koch of Barre Town** explained his vote as follows:

“Mr. Speaker:

Health insurance brokers serve a valid purpose. They help individuals and employers to assess their needs, review the various health insurance policies and programs on the market, and choose the insurance product that best fits their needs. To target broker commissions for reductions runs the risk of driving brokers out of Vermont and further limiting the few choices we have in selecting health care coverage. A Yes vote on this amendment is in no way a vote to increase premiums as one member has suggested, but a vote to preserve choice for Vermonters.”

**Rep. Marek of Newfane** explained his vote as follows:

“Mr. Speaker:

If we ever are going to control spiraling health care costs, we need to scrutinize all of those costs, not just some of them. This amendment would have protected some interests from real scrutiny at the ultimate expense of all Vermonters. If that wasn't the message, why adopt it? We just can't afford to keep on giving that sort of special treatment anymore.”

Pending third reading of the bill, **Rep. Lanpher of Vergennes** moved to amend the House proposal of amendment as follows:

In Sec. 6, subsection (e), subdivision (1)(A)(ii)(I), by inserting the words “and substance abuse” after “mental health”

Which was agreed to.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Davis of Washington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 91. Nays, 42.

Those who voted in the affirmative are:

Ancel of Calais	Haas of Rochester	Mrowicki of Putney
Andrews of Rutland City	Head of South Burlington	Nease of Johnson
Aswad of Burlington	Heath of Westford	Nuovo of Middlebury
Atkins of Winooski	Hooper of Montpelier	O'Brien of Richmond
Bissonnette of Winooski	Howard of Rutland City	Obuchowski of Rockingham
Bohi of Hartford	Jerman of Essex	Orr of Charlotte
Botzow of Pownal	Jewett of Ripton	Partridge of Windham
Bray of New Haven	Johnson of South Hero	Pellett of Chester
Browning of Arlington	Kitzmillier of Montpelier	Peltz of Woodbury
Burke of Brattleboro	Klein of East Montpelier	Poirier of Barre City
Cheney of Norwich	Krebs of South Hero	Potter of Clarendon
Clarkson of Woodstock	Lanpher of Vergennes	Pugh of South Burlington
Condon of Colchester	Larson of Burlington	Ram of Burlington
Conquest of Newbury	Lenes of Shelburne	Rodgers of Glover
Copeland-Hanzas of Bradford	Leriche of Hardwick	Shand of Weathersfield
Corcoran of Bennington	Lippert of Hinesburg	Sharpe of Bristol
Courcelle of Rutland City	Lorber of Burlington	Spengler of Colchester
Davis of Washington	Macaig of Williston	Stevens of Waterbury
Deen of Westminster	Maier of Middlebury	Stevens of Shoreham
Donovan of Burlington	Malcolm of Pawlet	Sweaney of Windsor
Edwards of Brattleboro	Marek of Newfane	Taylor of Barre City
Emmons of Springfield	Martin of Springfield	Till of Jericho
Evans of Essex	Martin of Wolcott	Townsend of Randolph
Fisher of Lincoln	Masland of Thetford	Waite-Simpson of Essex
Frank of Underhill	McCullough of Williston	Webb of Shelburne
French of Shrewsbury	Milkey of Brattleboro	Weston of Burlington
French of Randolph	Miller of Shaftsbury	Wilson of Manchester
Geier of South Burlington	Minter of Waterbury	Wizowaty of Burlington
Gilbert of Fairfax	Mitchell of Barnard	Young of St. Albans City
Grad of Moretown	Mook of Bennington	Zenie of Colchester
	Moran of Wardsboro	

Those who voted in the negative are:

Acinapura of Brandon	Greshin of Warren	McFaun of Barre Town
Adams of Hartland	Higley of Lowell	Morrissey of Bennington
Ainsworth of Royalton	Howard of Cambridge	Myers of Essex
Baker of West Rutland	Hubert of Milton	Olsen of Jamaica
Branagan of Georgia	Johnson of Canaan	Pearce of Richford
Brennan of Colchester	Kilmartin of Newport City	Peaslee of Guildhall
Canfield of Fair Haven	Koch of Barre Town	Perley of Enosburg
Clerkin of Hartford	Komline of Dorset	Reis of St. Johnsbury
Crawford of Burke	Krawczyk of Bennington	Savage of Swanton
Devereux of Mount Holly	Larocque of Barnet	Scheuermann of Stowe
Dickinson of St. Albans Town	Lawrence of Lyndon	Shaw of Pittsford
Donaghy of Poultney	Lewis of Derby	Winters of Williamstown
Donahue of Northfield	Marcotte of Coventry	Wright of Burlington
Fagan of Rutland City	McAllister of Highgate	
	McDonald of Berlin	

Those members absent with leave of the House and not voting are:

Audette of South Burlington	Manwaring of Wilmington	Toll of Danville
Clark of Vergennes	McNeil of Rutland Town	Turner of Milton
Consejo of Sheldon	Morley of Barton	Wheeler of Derby
Helm of Castleton	O'Donnell of Vernon	Zuckerman of Burlington
Howrigan of Fairfield	Smith of Mendon	
Keenan of St. Albans City	South of St. Johnsbury	

**Rep. Ainsworth of Royalton** explained his vote as follows:

“Mr. Speaker:

When the former head of the Vermont hospital Association, the CEO of Gifford Hospital and his EFO both tell me they are concerned about the actions taken within this bill as it will not reduce cost and only add more regulator burden. The CEO and DFO of a hospital which has stayed within their proposed budget the past 10 years. The only hospital which accepted the challenge of submitting a 2 year budget to the State for approval this past year. I can't vote in the affirmative.”

**Rep. Donahue of Northfield** explained her vote as follows:

“Mr. Speaker:

If we are serious about reform, we should begin by making our existing government-run plans – Medicaid and Catamount – sustainable. We started Catamount as a self-sustaining plan with unknown long-term funding only a few years ago, and it required \$7 million in general funds to bolster it this year. A massive expansion of the blueprint for health going beyond its focus on

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chronic conditions and into the realm of government-regulated regional global budget for all of health care is once again without any assurance of the capacity to pay for it. If the health care system participants are so enamored of this venture, we shouldn't need legislation to mandate it. Make no mistake, this will be a costly venture into uncharted waters, which we ignore our on-going sinking ships. This is not what is meant by reform."

**Rep. Kilmartin of Newport City** explained his vote as follows:

"Mr. Speaker:

I vote "no". This is another torpedo below the waterline of the Vermont ship of state. We are already sinking rapidly. All this does is increase our race to the bottom of the economic ocean, while chaining us to the bunks in our staterooms. Drowning is not my choice of suicide."

**Rep. Lanpher of Vergennes** explained her vote as follows:

"Mr. Speaker:

I was sent to Montpelier to make a difference! Voting "yes" today makes a difference. The passage of S 88 advances our commitment to Vermonters to lead the way in health care reform

The actions in S88 move Vermont forward in realizing our vision of affordable, quality health care for all Vermonters."

**Rep. Marek of Newfane** explained his vote as follows:

"Mr. Speaker:

This was a good bill two days ago and it continues to be a good bill today. For those who advocate clean and careful process, it provides exactly that. For those who seek immediate action, it provides it. For those who want drug samples, it delivers them with greater transparency. For those who value bipartisanship, it delivers it with the administration's support. All Vermonters have reason to be thankful that we have approved it today."

**Rep. McFaun of Barre Town** explained his vote as follows:

"Mr. Speaker:

I vote No because again this year we have brought a bill to the floor that does not adequately control the out of control costs of health care. Which is a subject of extreme intense concern to the people I represent in Barre Town."

**Rep. Till of Jericho** explained his vote as follows:

"Mr. Speaker:

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S 88 works to reduce costs of health care at multiple levels:

At the level of primary care, chronic disease management and prevention with the Vermont blueprint for health statewide rollout.

At the level of the hospital with limits on revenue growth – the best figure for health care spending at the hospital level.

At the level of specialty care, and variations in health care usage with community health system. It looks for an overall payment design that might be more efficient than what we have presently. It allows the consultant to design a system with Federal Health Care Reform in mind.”

**Rep. Webb of Shelburne** explained his vote as follows:

“Mr. Speaker:

Grandma always said an ounce of prevention is worth a pound of cure. In addition to the 289 people who provided testimony, it looks like the committee also heard from grandma. This bill strengthens primary and preventive care, builds community and keeps our health care dollars in Vermont.”

**Rep. Wizowaty of Burlington** explained her vote as follows:

“Mr. Speaker:

As a result of this bill, two important things will happen. First, Vermonters will have three fully designed options for an integrated health care system, complete with benefits and costs spelled out, to examine and choose from if they wish. Second, at the same time, the much advanced health care reforms we have been implementing in Vermont in for several years – the blueprint for health and others – will be strengthened and expanded. Together these two parts of the bill – not mutually exclusive but highly complementary – will address how health care is delivered and how it is paid for. I believe the bill as is will improve health care for Vermonters. Thank you .”

**Rep. Wright of Burlington** explained his vote as follows:

“Mr. Speaker:

My no vote reflects my belief that any potential benefits that this bill may have are overshadowed by the harm it inflicts. Harm to low and moderate income Vermonters, Seniors and the under and un insured. The concerns were real, and I am always disappointed when real concerns are dubbed misinformation, as they were mischaracterized on the House floor today.”



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**Bill Ordered to Lie****S. 122**

**Rep. Hubert of Milton**, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to recounts in elections for statewide offices

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

Sec. 1. 17 V.S.A. § 2370 is amended to read:

§ 2370. WRITE-IN CANDIDATES

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

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

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

§ 2386. TIME FOR FILING STATEMENTS

(a) Statements pursuant to this subchapter, except for vacancies created by the death or withdrawal of a candidate after the primary ~~and statements for minor party candidates and independent candidates~~, shall be filed ~~not earlier than the second Thursday after the first Monday in June before the day of the general election and not later than 5:00 p.m. on the Tuesday following the primary election~~ as set forth in section 2356 of this title.

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

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

(d) A statement of nomination and a completed and signed consent form shall be filed ~~not sooner than the second Thursday after the first Monday in June and not later than the third day after the primary election~~ as set forth in section 2356 of this title. No public official receiving nominations shall accept a petition unless a completed and signed consent form is filed at the same time.

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

§ 2413. NOMINATION OF JUSTICES OF THE PEACE

(a) The party members in each town, on or before the ~~fourth~~ first Tuesday of August in each even numbered year, upon the call of the town committee, may meet in caucus and nominate candidates for justice of the peace. The committee shall give notice of the caucus as provided in subsection (d) of this section and the chairman and secretary shall file the statements required in ~~sections section 2385 through 2387~~ section 2385 through 2387 of this title not later than 5:00 p.m. on the third day following the primary election.

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

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

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

§ 2414. WRITE-IN CANDIDATES; DECLARATION OF CANDIDACY

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

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of state shall prepare and make available a declaration of candidacy form to be completed, signed, and filed by a “write-in candidate” before the deadline.

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

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

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

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

#### § 2601. RECOUNTS

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

percent of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

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

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

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

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

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

Sec. 8. EFFECTIVE DATE

This act shall take effect upon passage.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Government Operations? **Rep. Haas**

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**of Rochester** moved to strike Secs. 3 and 4 of the report of the committee on Government Operations.

Pending the question, Shall the House strike Secs 3 and 4 of the report of the committee on Government Operations? **Rep. Deen of Westminster** moved that the bill be Ordered to Lie, which was agreed to.

**Proposal of Amendment Agreed to; Third Reading Ordered**

**S. 165**

**Rep. Jewett of Ripton**, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to eliminating the statute of limitations for felonies

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

**Message from the Senate No. 40**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate requests the House to return custody of the following bill to the Senate, a bill originating in the House of the following title:

**H. 788.** An act relating to approval of amendments to the charter of the town of Berlin.

**Proposal of Amendment Agreed to; Third Reading Ordered**

**S. 268**

**Rep. Frank of Underhill**, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to the building bright futures council

Reported in favor of its passage in concurrence with proposal of amendment as follows:

Sec. 1. FINDINGS

The general assembly finds that:

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

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

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

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

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

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

throughout the state. They have a positive impact on the state's labor supply and influence the overall economic competitiveness of the state.

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

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

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

#### CHAPTER 46. BUILDING BRIGHT FUTURES COUNCIL

##### § 4601. DEFINITIONS

As used in this chapter:

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

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

##### § 4602. BUILDING BRIGHT FUTURES COUNCIL

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

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

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

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

(9) the Head Start collaboration office director; and

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

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

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

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

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

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

#### § 4603. POWERS AND DUTIES

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

(1) Advise the administration and general assembly on the status and needs of the early care, health, and education system by conducting a review of



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the status of young children in Vermont and the care, health, and education services and systems that support them.

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

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

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

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

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

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

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

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

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

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

(12) Convene members of the child care community, medical community, education community, and other organizations, as well as state

agencies serving young children, to ensure that families receive quality services in the most efficient and cost-effective manner.

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

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

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

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

#### § 4604. LIMITATION OF SCOPE

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

#### Sec. 2. COMPOSITION OF COUNCIL

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

#### Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

**Rep. Miller of Shaftsbury**, for the committee on Appropriations, recommended that the bill ought to pass in concurrence when amended as recommended by the committee on Human Services.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committees on Human Services and Appropriations agreed to and third reading ordered.

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**Favorable Report; Third Reading Ordered****S. 173**

**Rep. Koch of Barre Town**, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to technical corrections to the trust laws;

Reported in favor of its passage in concurrence. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Senate Proposal of Amendment Not Concurred in;  
Committee of Conference Requested and Appointed****H. 759**

The Senate proposed to the House to amend House bill, entitled

An act relating to executive branch fees

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

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

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

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

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

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

issuance of an operating certificate. The fee for a person requesting a three-year authorization to conduct inspections shall be \$150.00. A licensed boiler inspector shall carry liability insurance in an amount determined by the department.

#### § 2884. QUALIFICATIONS OF INSPECTORS

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

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

\* \* \* Criminal conviction records \* \* \*

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

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

\* \* \*

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

\* \* \*

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

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

\* \* \* Fingerprinting fees \* \* \*

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

#### § 2062. FINGERPRINTING FEES

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

subchapter 5 of chapter 7 of Title 32, and shall be available to the department of public safety to offset the costs of providing these services.

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

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

§ 905. APPLICATION; EXAMINATIONS AND FEES

\* \* \*

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

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

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

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

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

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

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

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

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

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

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

secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

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

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

~~(b) If, upon review, the programmed price of a commodity exceeds the price printed on or the advertised price of the commodity, the store may be subject to license denial, revocation, suspension or the following administrative penalties: \$15.00 per violation identified in more than two percent but less than four percent of the commodities reviewed, rounded to the nearest whole number, \$20.00 per violation in the next two percent reviewed, \$50.00 per violation in the next two percent and \$100.00 for each additional violation. In no event, however, shall the total amount of penalty for the review exceed \$1,000.00 allowed by 6 V.S.A. § 15 for overcharge errors identified in two percent or more of the commodities reviewed.~~

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

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

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

§ 2506. APPLICATION FOR LICENSE

\* \* \*

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

\* \* \*

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

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

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

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

\* \* \*

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

(d) If a licensee does not file an annual report on or before April 1, pay its annual assessment on or before April 1, or pay its renewal fee by December 1, or within any extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. The licensee's license shall be suspended 10 calendar days after the commissioner sends the notice of suspension. The licensee has 20 days after its license is suspended in which to file an annual report, pay its annual assessment, or pay the renewal fee, plus \$100.00 for each day after suspension that the commissioner does not receive the annual report, the annual assessment, or the renewal fee. The commissioner for good cause may grant an extension of the due date of the annual report or the renewal date.

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

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

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

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

A licensee shall notify the commissioner in writing within 30 days of any change in the list of authorized delegates or locations in this state where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. Such notice shall state the name and street address of each authorized delegate or of each location removed or added to the licensee's list. Upon any such change, the licensee

shall provide sufficient evidence that it is in compliance with section 2507 of this title. The licensee shall submit with the notice a nonrefundable fee of \$25.00 for each new authorized delegate location and for each change in location. There is no fee to remove authorized delegates or to remove locations.

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

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

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

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

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

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

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

§ 2202a. APPLICATION FOR COMMERCIAL LENDER LICENSE; FEES

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### § 46. EXCEPTIONS

Section 43 of this title relating to deposit requirements and section 45 of this title relating to prepayment penalties shall not apply and the parties may

contract for a rate of interest in excess of the rate provided in section 41a of this title in the case of:

\* \* \*

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

\* \* \*

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

\* \* \* Moose hunting permit \* \* \*

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

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

\* \* \*

(i)(1) If the board establishes a moose hunting season, up to five moose permits shall be set aside to be auctioned. The board shall adopt rules necessary for the department to establish, implement, and run the auction process. Proceeds from the auction shall be deposited in the fish and wildlife fund and used for conservation education programs run by the department. Successful bidders must have a Vermont hunting or combination license in order to purchase a moose permit. Beginning with the 2006 hunting season, the five moose permits set aside for auction shall be in addition to the number of annual moose permits authorized by the board.

\* \* \*

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

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

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

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

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

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

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

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

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

\* \* \*

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

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

(A) facilities that crush or shred junk motor vehicles. \$2,000.00 per facility.

(B) facilities that accept or dismantle junk motor vehicles. \$1,000.00 per facility.

(C) facilities that manage junk on site excluding junk motor vehicles. \$350.00 per facility.

(D) facilities, the primary activity of which is handling total-loss vehicles from insurance companies. \$300.00 per facility.

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

\* \* \*

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

Nineteenth: By striking out Sec. 31 in its entirety

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

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

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

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

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

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

\* \* \* Probate fees \* \* \*

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

§ 1434. PROBATE COURTS

(a) The following entry fees shall be paid to the probate court for the benefit of the state, except for subdivision (17) of this subsection which shall be for the benefit of the county in which the fee was collected:

\* \* \*

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

\* \* \*

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

\* \* \*

And by renumbering the remaining sections to be numerically correct.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Branagan of Georgia** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Branagan of Georgia**  
**Rep. Masland of Thetford**  
**Rep. Zuckerman of Burlington**

**Senate Proposal of Amendment Not Concurred in;  
Committee of Conference Requested and Appointed**

**S. 264**

Senate bill, entitled

An act relating to stop and hauling charges;

The Senate has concurred in the House proposal of amendment with further amendment as follows:

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

**Sec. 5. EFFECTIVE DATE**

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

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Malcolm of Pawlet** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Malcolm of Pawlet**  
**Rep. McAllister of Highgatge**  
**Rep. Ainsworth of Royalton**

**Rules Suspended; Bills Messaged to Senate Forthwith**

On motion of **Rep. Wright of Burlington**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

**H. 784**

House bill, entitled

An act relating to the state's transportation program

**H. 759**

House bill, entitled

An act relating to executive branch fees

**S. 264**

Senate bill, entitled

An act relating to stop and hauling charges

**Custody of Bill Returned to Senate****H 788**

House bill, entitled

An act relating to approval of amendments to the charter of the town of Berlin;

**Rep. Martin of Wolcott** moved that custody of the bill be returned to the Senate pursuant to its request. Which was agreed to.

**Committee Relieved of Consideration  
and Bill Committed to Other Committee****S. 171**

**Rep. Pugh of South Burlington** moved that the committee on Human Services be relieved of Senate bill, entitled

An act relating to nutritional labeling of food by chain restaurants

And that the bill be committed to the committee on Health Care, which was agreed to.

**Committee Relieved of Consideration  
and Bill Committed to Other Committee****S. 262**

**Rep. Pugh of South Burlington** moved that the committee on Human Services be relieved of Senate bill, entitled

An act relating to a study of coverage of appropriate services for children with autism spectrum disorders

And that the bill be committed to the committee on Health Care, which was agreed to.

**Adjournment**

At four o'clock and twenty minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Monday, April 26, 2010, at ten o'clock in the forenoon.