

Journal of the Senate

WEDNESDAY, APRIL 29, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 67

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 443. An act relating to approval of amendments to the charter of the City of South Burlington.

H. 448. An act relating to codification and approval of amendments to the charter of the village of Swanton.

H. 451. An act relating to the approval of amendments to the charter of the city of Burlington.

In the passage of which the concurrence of the Senate is requested.

The House has considered bill originating in the Senate of the following title:

S. 94. An act relating to licensing state forestland for maple sugar production.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The Governor has informed the House that on the April 20, 2009, he approved and signed bill originating in the House of the following title:

H. 95. An act relating to the approval of an amendment to the charter of the city of Burlington.

The Governor has informed the House that on the April 23, 2009, he approved and signed bill originating in the House of the following title:

H. 31. An act relating to approval of amendments to the charter of the town of Williston.

The Governor has informed the House that on the April 24, 2009, he approved and signed bills originating in the House of the following titles:

H. 36. An act relating to repealing the charter of the Enosburg Falls Incorporated School District.

H. 131. An act relating to the codification of and approval of an amendment to the charter of Cold Brook Fire District No. 1.

The Governor has informed the House that on the April 27, 2009, he approved and signed bill originating in the House of the following title:

H. 232. An act relating to fiscal year 2009 budget adjustment.

Message from the House No. 68

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

H. 438. An act relating to the state's transportation program.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

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

Rep. Westman of Cambridge
Rep. Potter of Clarendon
Rep. Brennan of Colchester

The House has considered Senate proposals of amendment to House bill entitled:

H. 445. An act relating to capital construction and state bonding.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

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

Rep. Emmons of Springfield
Rep. Myers of Essex
Rep. Rodgers of Glover

Message from the House No. 69

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 120. House concurrent resolution congratulating Jay Hoffman and his students who produce the South Burlington Network News at Frederick H. Tuttle Middle School.

H.C.R. 121. House concurrent resolution congratulating the Hartford High School debaters participating in the national forensic championship.

H.C.R. 122. House concurrent resolution congratulating Grace Cottage Hospital on its 60th anniversary.

H.C.R. 123. House concurrent resolution congratulating Pat and Alan Fowler as recipients of the 2009 Great Falls Regional Chamber of Commerce Persons of the Year award.

H.C.R. 124. House concurrent resolution honoring Rose Fowler for her innovative leadership at Greater Rockingham Area Services Inc.

H.C.R. 125. House concurrent resolution honoring Dover School principal Susan Mach for her career contributions to public education.

H.C.R. 126. House concurrent resolution in memory of Margaret Jean George of Montpelier.

H.C.R. 127. House concurrent resolution congratulating the Rick Marcotte Central School teams that participated in the 2009 Vermont Odyssey of the Mind competition.

H.C.R. 128. House concurrent resolution congratulating Claussen Enterprises, Inc. of Colchester on being named the 2008 Vermont Retailer of the Year.

H.C.R. 129. House concurrent resolution congratulating John D. Dilts on the completion of his outstanding career in public education.

H.C.R. 130. House concurrent resolution congratulating Mike Friel on being named the 2009 Vermont Elementary School Principal of the Year.

H.C.R. 131. House concurrent resolution congratulating Nick Gain of Vernon on being named the 2009 Vermont Boys & Girls Clubs Vermont State Youth of the Year.

H.C.R. 132. House concurrent resolution congratulating the 2009 Green Up poster winners from the Flood Brook Union School in Londonderry.

H.C.R. 133. House concurrent resolution congratulating Xin Hu of St. Johnsbury Academy on being named a 2009 Vermont student winner of the Siemens Award for Advanced Placement.

H.C.R. 134. House concurrent resolution congratulating Dr. Kimberly Silloway on her induction into the Vermont Principals' Association Hall of Fame.

H.C.R. 135. House concurrent resolution honoring the late James Burlingame on his posthumous induction into the Vermont Principals' Hall of Fame.

H.C.R. 136. House concurrent resolution congratulating the 2008-2009 two-year college All-Vermont Academic Team.

H.C.R. 137. House concurrent resolution in memory of Dr. Elizabeth C. Faris.

H.C.R. 138. House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 Division II girls' championship basketball team.

H.C.R. 139. House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 Division II girls' championship ice hockey team.

H.C.R. 140. House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 championship boys' alpine ski team.

H.C.R. 141. House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 girls' championship snowboarding team.

H.C.R. 142. House concurrent resolution honoring Vermont's elementary, middle, and secondary school principals and assistant principals and technical center directors on Vermont Principal Recognition Day at the state house.

In the adoption of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 25. Joint resolution relating to public decorum at proceedings related to the current and future operations of the Vermont Yankee nuclear power plant in Vernon.

In the adoption of which the concurrence of the Senate is requested.

The House has considered bills originating in the Senate of the following titles:

S. 7. An act to prohibit the use of lighted tobacco products in the workplace.

S. 27. An act relating to tastings and sale of wines, fortified wines and spirits.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 22. Senate concurrent resolution congratulating the Agency of Agriculture, Food and Markets' "Agriview" newspaper on its 70th anniversary.

S.C.R. 23. Senate concurrent resolution in memory of Andrea Mead Lawrence.

S.C.R. 24. Senate concurrent resolution in memory of University of Vermont Professor Emeritus Everett W. Harris of Charlotte.

And has adopted the same in concurrence.

Message from the House No. 70

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

H. 26. An act relating to plans for treatment of unmarked burial sites.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

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

Rep. Head of South Burlington
Rep. Baker of West Rutland
Rep. Ram of Burlington

Pursuant to the request of the Senate for a Committee of Conference on House bill entitled:

H. 91. An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

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

Rep. Haas of Rochester
Rep. O'Donnell of Vernon
Rep. Pugh of South Burlington

The House has considered bill originating in the Senate of the following title:

S. 86. An act relating to the administration of trusts.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 33. Joint resolution relating to weekend adjournment.

And has passed the same in concurrence.

Bill Referred to Committee on Appropriations

H. 83.

House bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to underground storage tanks and the petroleum cleanup fund.

Rules Suspended; Committee Relieved of Further Consideration; Bills Committed

H. 92.

On motion of Senator Campbell, the rules were suspended, and H. 92 was taken up for immediate consideration, for the purpose of relieving the

Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to rent-to-own agreements,
and the bill was committed to the Committee on Economic Development, Housing and General Affairs.

H. 192.

On motion of Senator Campbell, the rules were suspended, and H. 192 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to electronic benefit machines for farmers' markets,
and the bill was committed to the Committee on Agriculture.

H. 405.

On motion of Senator Campbell, the rules were suspended, and H. 405 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to K-12 and higher education partnerships,
and the bill was committed to the Committee on Education.

H. 447.

On motion of Senator Campbell, the rules were suspended, and H. 447 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to wetlands protection,
and the bill was committed to the Committee on Natural Resources and Energy.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 443.

An act relating to approval of amendments to the charter of the City of South Burlington.

To the Committee on Government Operations.

H. 448.

An act relating to codification and approval of amendments to the charter of the village of Swanton.

To the Committee on Government Operations.

H. 451.

An act relating to the approval of amendments to the charter of the city of Burlington.

To the Committee on Government Operations.

Joint Resolution Referred**J.R.H. 25.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to public decorum at proceedings related to the current and future operations of the Vermont Yankee nuclear power plant in Vernon.

Whereas, on Thursday, April 16, 2009, the U.S. Nuclear Regulatory Commission convened a public meeting in Brattleboro to discuss its annual assessment of the Vermont Yankee nuclear power plant in Vernon, and

Whereas, the current and future operations of Vermont Yankee are extremely contentious issues, over which members of the public have strongly divergent opinions, and

Whereas, although many members of the audience had views the opposite of those that the NRC expressed in its stated findings, these disagreements did not justify opponents of the commission's positions abandoning civil discourse and behavior during the course of the meeting, and

Whereas, throwing a handful of compost at officials of the Entergy Corporation and depositing other piles of the food waste in front of NRC officials did not advance the public discussion, and

Whereas, it is possible to express strong and vociferous dissenting views without engaging in unseemly and unnecessary theatrics, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly requests all participants at proceedings related to the current and future operations of Vermont Yankee to refrain from crude and unseemly behavior and that they express their opinions in a civilized manner, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Nuclear Regulatory Commission and to Vermont Yankee.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Rules.

Senate Resolution Placed on Calendar

S.R. 12.

Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr and White,

S.R. 12. Senate resolution designating the third week in October of 2009 as disability history week.

Whereas, according to the United States Census, one in five Vermonters has a disability, and disability experience is a significant part of the of the personal and social lives of these Vermonters and their families, and

Whereas, while disability rates are declining in older adults, they are increasing among younger Vermonters, and the overall number of individuals with disabilities living in the community is increasing, and

Whereas, Vermont citizens and the General Assembly share a proud history of promoting equal rights and opportunities for individuals with disabilities in education, employment, and community life, and

Whereas, Vermont remains committed to ensuring that persons with disabilities benefit equally from the values of freedom and unity that underlie our state's laws and constitution, and

Whereas, the Americans with Disabilities Act of 1990 is founded on four principles—inclusion, full participation, economic self-sufficiency, and equality of opportunity for all people with disabilities, and

Whereas, to ensure the full inclusion of people with disabilities into society, it is necessary to expand public knowledge, awareness and understanding of the history of disabilities and the disability rights, deaf culture, independent living, and self-advocacy movements, and of disability as a natural part of the human experience, and

Whereas, it is desirable that Vermont's public elementary, secondary and postsecondary educational institutions promote activities that provide education, awareness and understanding regarding people with disabilities through their curriculum offerings, assemblies and other activities, and

Whereas, cooperation between educational institutions and community-based organizations as a way to promote equality of opportunity and full participation of individuals with disabilities in the social, educational, economic and political life of our communities should be encouraged and promoted throughout the state, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont designates the third week in October as disability history week in Vermont, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Coalition for Disability Rights in Montpelier.

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

Committees of Conference Appointed

H. 26.

An act relating to plans for treatment of unmarked burial sites.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Illuzzi
Senator Ashe
Senator Carris

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 438.

An act relating to the state's transportation program.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mazza
Senator Scott
Senator Kitchel

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 445.

An act relating to capital construction and state bonding.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Scott
Senator Mazza
Senator Campbell

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bill Committed**S. 137.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to the Vermont recovery and reinvestment act of 2009.

Was taken up for immediate consideration.

Thereupon, pending the reading of the reports of the Committee on Natural Resources and Energy and the Committee on Finance, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Natural Resources and Energy and the Committee on Finance *intact*,

Which was agreed to.

Consideration Postponed

Senate bill entitled:

S. 99.

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Bill Passed in Concurrence**H. 249.**

House bill of the following title:

An act relating to volunteer nonprofit service organizations and casino nights.

Was read the third time and passed in concurrence with proposal of amendment on a division of the Senate, Yeas 13, Nays 4

Consideration Postponed

House bill entitled:

H. 6.

An act relating to the sale of engine coolants and antifreeze.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Rules Suspended; House Proposal of Amendment Concurred In; Rules Suspended; Bill Delivered**S. 27.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to tastings and sale of wines, fortified wines and spirits.

Was taken up for immediate consideration.

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

Sec. 1. 7 V.S.A. § 2(15), (16), (27), and (28) are amended to read:

(15) “Manufacturer’s or rectifier’s license”: a license granted by the liquor control board that permits the holder to manufacture or rectify, as the case may be, malt beverages and vinous beverages for export and for sale to bottlers or wholesale dealers, or spirituous liquors for export and for sale to the liquor control board, upon application of a manufacturer or rectifier and the payment to the liquor control board of the license fee as required by subdivision 231(1) of this title for either license. The liquor control board may grant to a licensed manufacturer or rectifier a first class restaurant or cabaret license or first and third class restaurant or cabaret license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer’s premises. A manufacturer of malt beverages who also holds a first class restaurant or cabaret license may serve to a customer malt beverages by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass. The liquor control board may grant to a licensed manufacturer or a rectifier of malt or vinous beverages a second class license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer’s or rectifier’s premises. A licensed manufacturer or rectifier of vinous beverages may serve, with or without charge, at an event held on premises of the licensee or the vineyard property, vinous and malt beverages, provided the licensee gives the department written notice of the event, including details required by the department, at least 15 days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer. Upon application and payment of the license fee as required by subdivision 231(11) of this title, the liquor control board may grant to a licensed manufacturer or rectifier of vinous beverages fourth class or farmers’ market licenses permitting the licensee to sell ~~these~~ fortified wines and vinous beverages by the bottle to the public at the licensed premises or at a farmers’ market, provided that the beverages were produced by the manufacturer or rectifier. No more than a combined total of ten fourth class and farmers’ market licenses may be granted to any licensed manufacturer or rectifier. An application for a farmers’ market license shall include copies of the farmers’ market regulations, the agreement between the farmers’ market and the applicant, and the location and dates of operation of the farmers’ market. A farmers’ market license shall be valid for all dates of operation for a specific farmers’ market location. However, in no case may a person with an interest in more than one manufacturer’s or rectifier’s license have an interest in more than four fourth class licenses. The manufacturer or rectifier shall pay directly to the commissioner of taxes the sum of \$0.265 cents per gallon for every gallon of malt beverage and the sum of \$0.55 cents per gallon for each gallon of vinous beverage manufactured by the manufacturer or rectifier and provided for sale pursuant to the first class

license or the second class license or the fourth class license or combination thereof held by the manufacturer or rectifier. Holders of a manufacturer's or rectifier's second class license for malt beverages may distribute, with or without charge, malt beverages by the glass, not to exceed two ounces per product and eight ounces in total, to all persons of legal drinking age. The malt beverages must be consumed upon the premises of the holder of the license. At the request of a person holding a first class or second class license, a holder of a manufacturer's or rectifier's license for malt beverages may distribute without charge to the management and staff of the license holder, provided they are of legal drinking age, no more than four ounces per person of a malt beverage for the purpose of promoting the beverage. Written notice shall be provided to the department of liquor control at least 10 days prior to the date of the tasting. A licensed manufacturer or rectifier of spirits may do either or both of the following only on the manufacturer's or rectifier's premises:

(A) Sell by the glass or bottle to the public spirits manufactured by the licensee.

(B) Dispense by the glass, with or without charge, spirits manufactured by the licensee, provided that no more than one-quarter ounce per product and no more than one ounce in total is dispensed to each individual of legal age.

(16) "Person," as applied to licensees: means individuals who are both citizens and residents of the state of the United States, partnerships composed solely of individuals, a majority of whom are both citizens and residents of the state United States, and ~~to~~ corporations organized under the laws of this or another state whereof in which a majority of the directors are both citizens of the United States ~~and residents of this state~~, ~~or to corporations subject to the jurisdiction of the public service board, and to limited liability companies organized under the laws of this or another state in which a majority of the members or managers are both citizens of the United States and residents of this state.~~

* * *

(27) "Special events permit": a permit granted by the liquor control board permitting a person holding a manufacturer's or rectifier's license to attend an event open to the public, which has been approved by the local licensing authority, to sell by the glass or by unopened bottle ~~the~~ spirits, malt, or vinous beverage beverages manufactured or rectified by the license holder. For the purposes of tasting only, the permit holder may distribute, with or without charge, beverages manufactured by the permit holder, provided that the permit holder distributes no more than two ounces per product and eight ounces total of malt or vinous beverages and no more than one ounce in total

of spirits to individuals of legal age. No more than 12 special events' permits shall be issued to a holder of a manufacturer's or rectifier's license during a year. The fee for the permit is as required by subdivision 231(13) of this title, and shall be paid to the department of liquor control. Requests for a special events' permit shall be submitted to the department of liquor control and received by the department at least 15 days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer's or rectifier's 12 special-event-permit limitation.

(28) "Fourth class license": the license granted by the liquor control board permitting a manufacturer or rectifier of vinous beverages to sell fortified wines manufactured by the licensed manufacturer or rectifier and vinous beverages by the bottle and distribute, with or without charge, vinous those beverages by the glass as hereinbefore defined.

* * *

Sec. 2. 7 V.S.A. § 223 is amended to read:

§ 223. ~~FIRST AND SECOND CLASS LICENSES; RESIDENCE REQUIREMENTS; LICENSES TO ENFORCEMENT OFFICER OR CONTROL BOARD MEMBER; EXCEPTIONS~~

~~(a) No first or second class license for the sale of malt or vinous beverages shall be granted to an individual, unless the individual is, at the time of application, a legal resident of the town or city in which the application is made. No first or second class license shall be granted to a partnership unless one or more of its general partners is a legal resident of the town or city in which the application is made and a majority of the partners are both legal residents of Vermont and U.S. citizens. No license of any class shall be granted to any enforcement officer or to any person or corporation acting in his or her the officer's behalf. A member of a local control board to whom or in behalf of whom a first or second class license was issued by that board shall not participate in any control board action regarding any first or second class license. If a majority of the members of a local control board is unable to participate in a control board action regarding any first or second class license, that action shall be referred to the state liquor control board for investigation and action. An application for a first or second class license by or in behalf of a member of the local control board or a complaint or disciplinary action regarding a first or second class license issued by a board on which any member is a licensee shall be referred to the state liquor control board for investigation and action. The provisions of this section, however, shall not apply where application is made by a citizen and legal resident of a town or~~

~~city in Vermont for a license to sell malt or vinous beverages in a town or city wherein he or she is not a legal resident, provided such applicant owns improved real estate or personal property other than stock of goods for sale in the town wherein such license is to be issued upon which he or she pays taxes appraised by the listers at not less than \$2,500.00 on real estate or \$1,000.00 on personal property. The provisions of this title shall not apply to an individual who applies for a license to be used at the site of flood control projects or national guard encampments whose application is approved by the commanding officer thereof.~~

~~(b) A second class license may be granted, however, where an application is made by a citizen and legal resident of any town or city in the state and who has openly conducted a place of business in such town or city in which the application is made for one year next prior to the making of the application, or who has purchased a going business which has been conducted openly in such town or city for a period of one year next prior to the making of the application, and who is a legal resident of the town or city in which he resides~~

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered delivered to the Governor forthwith.

House Proposal of Amendment Concurred In with Amendment

S. 26.

House proposal of amendment to Senate bill entitled:

An act relating to recovery of profits from crime.

Was taken up.

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

Sec. 1. 13 V.S.A. § 5351(8) is added to read:

(8) "Profits from crimes" means:

(A) any property obtained through or income generated from the commission of a crime in which the defendant was convicted;

(B) any property obtained by or income generated from the sale, conversion, or exchange of proceeds of a crime, including any gain realized by such sale, conversion, or exchange;

(C) any property that the defendant obtained or any income generated as a result of having committed the crime, including any assets obtained through the use of unique knowledge acquired during the commission of or in preparation for the commission of the crime, as well as any property obtained or income generated from the sale, conversion, or exchange of such property and any gain realized by such sale, conversion, or exchange, and

(d) any property defendant obtained or any income generated from the sale of tangible property the value of which is increased by the notoriety gained from the conviction of an offense by the person accused or convicted of the crime.

Sec. 2. 13 V.S.A. chapter 167, subchapter 4 is added to read:

Subchapter 4. Profits from Crime

§ 5421. NOTICE OF PROFITS FROM A CRIME

(a) Every person, firm, corporation, partnership, association, or other legal entity which knowingly contracts for, pays, or agrees to pay any profits from a crime, as defined in subdivision 5351(8) of this title, to a person charged with or convicted of that crime shall give written notice to the attorney general of the payment or obligation to pay as soon as is practicable after discovering that the payment is or will be a profit from a crime.

(b) The attorney general, upon receipt of notice of a contract, agreement to pay, or payment of profits of the crime shall send written notice of the existence of such profits to all known victims of the crime at their last known addresses.

§ 5422. ACTIONS TO RECOVER PROFITS FROM A CRIME

(a) Notwithstanding any other provision of law, including any statute of limitations, any crime victim shall have the right to bring a civil action in a court of competent jurisdiction to recover money damages from a person convicted of that crime, or the legal representative of that convicted person, within three years of the discovery of any profits from the crime. Any damages awarded in such action shall be recoverable only up to the value of the profits of the crime. This section shall not limit the right of a victim to proceed or recover under another cause of action.

(b) The attorney general may, within three years of the discovery of any profits from the crime, bring a civil action on behalf of the state to enforce the subrogation rights described in section 5357 of this title.

(c) If the full value of any profits from the crime has not yet been claimed by either the victim of the crime or the victim's representative, the attorney general, or both, within three years of the discovery of such profits, then the

state may bring a civil action in a court of competent jurisdiction to recover the costs incurred by providing the defendant with counsel, if any, and other costs reasonably incurred or to be incurred in the incarceration of the defendant.

(d) Upon the filing of an action pursuant to subsection (a) of this section, the victim shall deliver a copy of the summons and complaint to the attorney general. Upon receipt of a copy of the summons and complaint, the attorney general shall send written notice of the alleged existence of profits from the crime to all other known victims at their last known addresses.

(e) To avoid the wasting of assets identified in the complaint as newly discovered profits of the crime, the attorney general, acting on behalf of the plaintiff and all other victims, shall have the right to apply for all remedies that are also otherwise available to the victim.

Sec. 3. 14 V.S.A. chapter 85 is added to Part 3 to read:

CHAPTER 85. GENERAL PRINCIPLES

§ 1971. INTENTIONAL KILLING; OFFENDER NOT TO BENEFIT

(a) The acquisition of any property, interest, power, or benefit by a person as the result of the person's commission of an intentional and unlawful killing shall be treated in accordance with the principle that a killer cannot profit from his or her wrong, and a court shall have the power to distribute, reform, revoke, or otherwise dispose of such property, interest, power, or benefit in accord with the principles of this section.

(b) This section shall apply retroactively to any property, interest, power, or benefit acquired as the result of the commission of an intentional and unlawful killing committed prior to the effective date of this act.

Sec. 4. REPEAL

Chapters 41, 43, and 45 of Title 14 are repealed.

Sec. 5. 14 V.S.A. chapter 42 is added to Part 2 to read:

CHAPTER 42. DESCENT AND SURVIVORS' RIGHTS

Subchapter 1. General Provisions

§ 301. INTESTATE ESTATE

(a) Any part of a decedent's estate not effectively disposed of by will passes by intestate succession to the decedent's heirs, except as modified by the decedent's will.

(b) A decedent's will may expressly exclude or limit the right of an individual or a class to inherit property. If such an individual or member of such a class survives the decedent, the share of the decedent's intestate estate

which would have passed to that individual or member of such a class passes subject to any such limitation or exclusion set forth in the will.

(c) Nothing in this section shall preclude the surviving spouse of the decedent from making the election and receiving the benefits provided by section 319 of this title.

§ 302. DOWER AND CURTESY ABOLISHED

The estates of dower and curtesy are abolished.

§ 303. AFTERBORN HEIRS

For purposes of this chapter and chapter 1 of this title relating to wills, an individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth.

Subchapter 2. Survivors' Rights and Allowances

§ 311. SHARE OF SURVIVING SPOUSE

After payment of the debts, funeral charges, and expenses of administration, the intestate share of the decedent's surviving spouse is as follows:

(1) The surviving spouse shall receive the entire intestate estate if no descendant of the decedent survives the decedent or if all of the decedent's surviving descendants are also descendants of the surviving spouse.

(2) In the event there shall survive the decedent one or more descendants of the decedent who are not descendants of the surviving spouse and are not excluded by the decedent's will from inheriting from the decedent, the surviving spouse shall receive one-half of the intestate estate.

§ 312. SURVIVING SPOUSE TO RECEIVE HOUSEHOLD GOODS

Upon motion, the surviving spouse of a decedent may receive out of the decedent's estate all furnishings and furniture in the decedent's household when the decedent leaves no descendants who object. If any objection is made by any of the descendants, the court shall decide what, if any, of such personalty shall pass under this section. Goods and effects so assigned shall be in addition to the distributive share of the estate to which the surviving spouse is entitled under other provisions of law. In making a determination pursuant to this section, the court may consider the length of the decedent's marriage, or civil union, the sentimental and monetary value of the property, and the source of the decedent's interest in the property.

§ 313. SURVIVING SPOUSE; VESSEL, SNOWMOBILE, OR ALL-TERRAIN VEHICLE

Whenever the estate of a decedent who dies intestate consists principally of

a vessel, snowmobile, or all-terrain vehicle, the surviving spouse shall be deemed to be the owner of the vessel, snowmobile, or all-terrain vehicle, and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. The surviving spouse may register the vessel, snowmobile, or all-terrain vehicle pursuant to section 3816 of Title 23.

§ 314. SHARE OF HEIRS OTHER THAN SURVIVING SPOUSE

(a) The balance of the intestate estate not passing to the decedent's surviving spouse under section 311 of this title passes to the decedent's descendants by right of representation.

(b) If there is no taker under subsection (a) of this section, the intestate estate passes in the following order:

(1) to the decedent's parents equally if both survive or to the surviving parent;

(2) to the decedent's siblings and the descendants of any deceased siblings by right of representation;

(3) one-half of the intestate estate to the decedent's paternal grandparents equally if they both survive or to the surviving paternal grandparent and one-half of the intestate estate to the decedent's maternal grandparents equally if they both survive or to the surviving maternal grandparent and if decedent is survived by a grandparent, or grandparents on only one side, to that grandparent or those grandparents;

(4) in equal shares to the next of kin in equal degree.

(c) If property passes under this section by right of representation, the property shall be divided into as many equal shares as there are children or siblings of the decedent, as the case may be, who either survive the decedent or who predecease the decedent leaving surviving descendants.

§ 315. PARENT AND CHILD RELATIONSHIP

For the purpose of intestate succession, an individual is the child of his or her parents, regardless of their marital status, but a parent shall not inherit from a child unless the parent has openly acknowledged the child and not refused to support the child. The parent and child relationship may be established in parentage proceedings under subchapter 3A of chapter 5 of Title 15.

§ 316. SUPPORT OF SURVIVING SPOUSE AND FAMILY DURING SETTLEMENT

The probate court may make reasonable allowance for the expenses of maintenance of the surviving spouse and minor children or either, constituting the family of a decedent, out of the personal estate or the income of real or

personal estate from date of death until settlement of the estate, but for no longer a period than until their shares in the estate are assigned to them or, in case of an insolvent estate, for not more than eight months after administration is granted. This allowance may take priority, in the discretion of the court, over debts of the estate.

§ 317. ALLOWANCE TO CHILDREN BEFORE PAYMENT OF DEBTS

When a person dies leaving children under 18 years of age, an allowance may be made for the necessary maintenance of such children until they become 18 years of age. Such allowance shall be made before any distribution of the estate among creditors, heirs, or beneficiaries by will.

§ 318. ALLOWANCE TO CHILDREN AFTER PAYMENT OF DEBTS

Before any partition or division of an estate among the heirs or beneficiaries by will, an allowance may be made for the necessary expenses of the support of the children of the decedent under 18 years of age until they arrive at that age. The probate court may order the executor or administrator to retain sufficient estate assets for that purpose, except where some provision is made by will for their support.

§ 319. WAIVER OF WILL BY SURVIVING SPOUSE

(a) A surviving spouse may waive the provisions of the decedent's will and in lieu thereof elect to take one-half of the balance of the estate, after the payment of claims and expenses.

(b) The surviving spouse must be living at the time this election is made. If the surviving spouse is mentally disabled and cannot make the election personally, a guardian or attorney in fact under a valid durable power of attorney may do so.

§ 320. EFFECT OF DIVORCE ORDER

A final divorce order from any state shall have the effect of nullifying a gift by will or inheritance by operation of law to an individual who was the decedent's spouse at the time the will was executed if the decedent was no longer married to or in a civil union with that individual at the time of death, unless his or her will specifically states to the contrary.

§ 321. CONVEYANCES TO DEFEAT SPOUSE'S INTEREST

A voluntary transfer of any property by an individual during a marriage or civil union and not to take effect until after the individual's death, made without adequate consideration and for the primary purpose of defeating a surviving spouse in a claim to a share of the decedent's property so transferred, shall be void and inoperative to bar the claim. The decedent shall be deemed

at the time of his or her death to be the owner and seised of an interest in such property sufficient for the purpose of assigning and setting out the surviving spouse's share.

§ 322. UNLAWFUL KILLING AFFECTING INHERITANCE

Notwithstanding sections 311 through 314 of this title or provisions otherwise made, in any case where an individual is entitled to inherit or receive property under the last will of a decedent, or otherwise, such individual's share in the decedent's estate shall be forfeited and shall pass to the remaining heirs or beneficiaries of the decedent if such person intentionally and unlawfully kills the decedent. In any proceedings to contest the right of an individual to inherit or receive property under a will, the record of such person's conviction of intentionally and unlawfully killing the decedent shall be admissible evidence that such person did intentionally kill the decedent.

Subchapter 3. Descent, Omitted Issue, and Lapsed Legacies

§ 331. DEGREES; HOW COMPUTED: KINDRED OF HALF-BLOOD

Kindred of the half-blood shall inherit the same share they would inherit if they were of the whole blood.

§ 332. SHARE OF AFTERBORN CHILD

When a child of a testator is born after the making of a will and provision is not therein made for that child, he or she shall have the same share in the estate of the testator as if the testator had died intestate unless it is apparent from the will that it was the intention of the testator that provision should not be made for the child.

§ 333. SHARE OF CHILD OR DESCENDANT OF CHILD OMITTED FROM WILL

When a testator omits to provide in his or her will for any of his or her children, or for the descendants of a deceased child, and it appears that the omission was made by mistake or accident, the child or descendants, as the case may be, shall have and be assigned the same share of the estate of the testator as if the testator had died intestate.

§ 334. AFTERBORN AND OMITTED CHILD; FROM WHAT PART OF ESTATE SHARE TAKEN

When a share of a testator's estate is assigned to a child born after the making of a will, or to a child or the descendant of a child omitted in the will, the share shall be taken first from the estate not disposed of by the will, if there is any. If that is not sufficient, so much as is necessary shall be taken from the devisees or legatees in proportion to the value of the estate they respectively

receive under the will. If the obvious intention of the testator, as to some specific devise, legacy, or other provision in the will, would thereby be defeated, the specific devise, legacy, or provision may be exempted from such apportionment and a different apportionment adopted in the discretion of the court.

§ 335. BENEFICIARY DYING BEFORE TESTATOR: DESCENDANTS TO TAKE

When a testamentary gift is made to a child or other kindred of the testator, and the designated beneficiary dies before the testator, leaving one or more descendants who survive the testator, such descendants shall take the gift that the designated beneficiary would have taken if he or she had survived the testator, unless a different disposition is required by the will.

§ 336. INDIVIDUAL ABSENT AND UNHEARD OF; SHARE OF ESTATE

If an individual entitled to a distributive share of the estate of a decedent is absent and unheard of for six years, two of which are after the death of the decedent, the probate court in which the decedent's estate is pending may order the share of the absent individual distributed in accordance with the terms of the decedent's will or the laws of intestacy as if such absent individual had not survived the decedent. If the absent individual proves to be alive, he or she shall be entitled to the share of the estate notwithstanding prior distribution, and may recover in an action on this statute any portion thereof which any other individual received under order. Before an order is made for the payment or distribution of any money or estate as authorized in this section, notice shall be given as provided by the Vermont Rules of Probate Procedure.

§ 337. REQUIREMENT THAT INDIVIDUAL SURVIVE DECEDENT FOR 120 HOURS

Except as provided in the decedent's will, an individual who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of homestead allowance, exempt property, intestate succession, and taking under decedent's will, and the decedent's heirs and beneficiaries shall be determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir or beneficiary survived the decedent by 120 hours, it is deemed that the individual failed to survive for the required period. This section is not to be applied if its application would result in escheat.

§ 338. DISTRIBUTION; ORDER IN WHICH ASSETS APPROPRIATED; ABATEMENT

(a)(1) Except as provided in subsection (b) of this section, shares of distributees given under a will abate, without any preference or priority as between real and personal property, in the following order:

(A) property not disposed of by the will;

(B) residuary devises and bequests;

(C) general devises and bequests;

(D) specific devises and bequests.

(2) For purpose of abatement, a general devise or bequest charged on any specific property or fund is a specific devise or bequest to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise or bequest to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

(b) If the will expresses an order of abatement or if the testamentary plan or the express or implied purpose of a devise or bequest would be defeated by the order of abatement listed in subsection (a) of this section, the shares of the distributees shall abate as may be necessary to give effect to the intention of the testator.

(c) If the subject of a preferred devise or bequest is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

Sec. 6. 23 V.S.A. § 2023 is amended to read:

§ 2023. TRANSFER OF INTEREST IN VEHICLE

(a) If an owner transfers his or her interest in a vehicle, other than by the creation of a security interest, he or she shall, at the time of delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate or as the commissioner prescribes, and of the odometer reading or hubometer reading or clock meter reading of the vehicle at the time of delivery in the space provided therefor on the certificate, and cause the certificate and assignment to be mailed or delivered to the transferee or to the commissioner. Where title to a vehicle is in the name of more than one person, the nature of the ownership must be indicated by one of the following on the certificate of title:

- (1) TEN ENT (tenants by the entirety);
- (2) JTEN (joint tenants);
- (3) TEN COM (tenants in common); ~~or~~
- (4) PTNRS (partners); or
- (5) TOD (transfer on death).

(b) Upon request of the owner or transferee, a lienholder in possession of the certificate of title shall, unless the transfer was a breach of his or her security agreement, either deliver the certificate to the transferee for delivery to the commissioner or, upon receipt from the transferee of the owner's assignment, the transferee's application for a new certificate and the required fee, mail or deliver them to the commissioner. The delivery of the certificate does not affect the rights of the lienholder under his security agreement.

(c) If a security interest is reserved or created at the time of the transfer, the certificate of title shall be retained by or delivered to the person who becomes the lienholder, and the parties shall comply with the provisions of section 2043 of this title.

(d) Except as provided in section 2024 of this title and as between the parties, a transfer by an owner is not effective until the provisions of this section and section 2026 of this title have been complied with; however, an owner who has delivered possession of the vehicle to the transferee and has complied with the provisions of this section and section 2026 of this title requiring action by him or her is not liable as owner for any damages thereafter resulting from operation of the vehicle.

(e) Notwithstanding other provisions of the law, whenever the estate of an individual who dies intestate consists principally of an automobile, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the same shall automatically and by virtue hereof pass to said surviving spouse. Registration of the vehicle in the name of the surviving spouse shall be effected by payment of a transfer fee of \$7.00. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(1) Notwithstanding other provisions of the law, and except as provided in subdivision (2) of this subsection, whenever the estate of an individual consists in whole or in part of a motor vehicle, and the person's will or other testamentary document does not specifically address disposition of motor vehicles, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the motor vehicle shall automatically pass to the surviving spouse. Registration and title of the motor vehicle in the name of the surviving

spouse shall be effected by payment of a transfer fee of \$7.00. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(2) This subsection shall apply to no more than two motor vehicles, and shall not apply if the motor vehicle is titled in the name of one or more persons other than the decedent and the surviving spouse.

(f) Where the title identifies a person who will become the owner upon the death of the principal owner (transfer on death), the principal owner shall have all rights of ownership and rights of transfer until his or her death. The designated transferee shall have no rights of ownership until such time as the principal owner has died as established by a valid death certificate. At that time, the transferee shall become the owner of the vehicle subject to any existing security interests.

Sec. 7. 23 V.S.A. § 3816 is amended to read:

§ 3816. TRANSFER OF INTEREST IN VESSEL

* * *

(e) Pursuant to the provisions of 14 V.S.A. § ~~403a~~ 313, whenever the estate of an individual who dies intestate consists principally of a vessel, snowmobile, or all-terrain vehicle, the surviving spouse shall be deemed to be the owner of the vessel, snowmobile, or all-terrain vehicle and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. The surviving spouse may register the vessel, snowmobile, or all-terrain vehicle by paying a transfer fee not to exceed \$2.00.

Sec. 8. 27 V.S.A. §§ 101 and 102 are amended to read:

§ 101. DEFINITION; EXEMPTION FROM ATTACHMENT AND EXECUTION

The homestead of a natural person consisting of a dwelling house, outbuildings and the land used in connection therewith, not exceeding ~~\$75,000.00~~ \$125,000.00 in value, and owned and used or kept by such person as a homestead together with the rents, issues, profits, and products thereof, shall be exempt from attachment and execution except as hereinafter provided.

§ 102. DESIGNATING HOMESTEAD IN CASE OF LEVY

When an execution is levied upon real estate of the person of which a homestead is a part or upon that part of a homestead in excess of the limitation of ~~\$75,000.00~~ \$125,000.00 in value, that person may designate and choose the part thereof, not exceeding the limited value, to which the exemption created in section 101 of this title shall apply. Upon designation and choice or refusal to designate or choose, the officer levying the execution, if the parties fail to

agree upon appraisers, shall appoint three disinterested freeholders of the vicinity who shall be sworn by him or her and who shall fix the location and boundaries of the homestead to the amount of ~~\$75,000.00~~ \$125,000.00 in value. The officer shall then proceed with the sale of the residue of the real estate on the execution as in other cases, and the doings in respect to the homestead shall be stated in the return upon the execution.

Sec. 9. EFFECTIVE DATE

(a) Sections 1, 2, 3, 4, 5, 7 and 9 of this act shall take effect upon passage. Sec. 5 of this act shall apply only to the estates of persons dying on or after the effective date of Sec. 5 this act.

(b) Secs. 6 and 8 of this act shall take effect July 1, 2009.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 27 V.S.A. § 2 is amended to read:

§ 2. ESTATE IN COMMON PREFERRED TO JOINT TENANCY; JOINT TENANCY WITH UNEQUAL SHARES

(a) Conveyances and devises of lands, whether for years, for life or in fee, made to two or more persons, shall be construed to create estates in common and not in joint tenancy, unless it is expressed therein that the grantees or devisees shall take the lands jointly or as joint tenants or in joint tenancy or to them and the survivors of them. This provision shall not apply to devises or conveyances made in trust or made to husband and wife or to conveyance in which it manifestly appears from the tenor of the instrument that it was intended to create an estate in joint tenancy.

(b)(1) An instrument may create a joint tenancy in which the interests of the joint tenants are equal or unequal.

(2) Unless the instrument creating a joint tenancy contains language indicating a contrary intent:

(A) It shall be presumed that the joint tenants' interests are equal.

(B) Upon the death of a joint tenant, the deceased joint tenant's interest shall be allocated among the surviving joint tenants, as joint tenants, in proportion to their respective joint interests at the time of the deceased joint tenant's death.

(c) Any joint tenant who unlawfully and intentionally kills another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes immediately to the decedent's estate, and the killer has no rights of survivorship. This provision applies to joint tenancies with right of survivorship and tenancies by the entirety in real and personal property; joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions; and any other form of co-ownership with survivorship incidents.

(d) A final judgment of conviction of an unlawful and intentional killing is conclusive for purposes of this section. In the absence of a conviction, a court may determine by clear and convincing evidence whether the killing was unlawful and intentional for purposes of this section.

(e) A severance under subsection (c) of this section does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a certified copy of the judgment referenced in subsection (d) of this section is recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership, but the killer is liable for the amount of the proceeds or the value of the property.

(f) The rights of a mortgage or lienholder in any property that is severed under subsection (c) of this section shall not be affected.

Second: In Sec. 5, 14 V.S.A. § 322, by striking out § 322 in its entirety and inserting in lieu thereof a new § 322 to read as follows:

§ 322. UNLAWFUL KILLING AFFECTING INHERITANCE

(a) Notwithstanding sections 311 through 314 of this title or provisions otherwise made, in any case in which an individual is entitled to inherit or receive property under the last will of a decedent or otherwise or stands to benefit under the terms of any trust of a decedent, the individual's share in the decedent's estate or benefits from any trust shall be forfeited and shall pass to the remaining heirs or beneficiaries of the decedent if the individual intentionally and unlawfully kills the decedent or intentionally and unlawfully kills another person and, by doing so, stands to inherit under the decedent's will or otherwise or to become a beneficiary under any trust of the decedent. In any proceedings to contest the right of an individual to inherit or receive property under a will or otherwise or to benefit under the terms of any trust, the record of that individual's conviction of intentionally and unlawfully killing the decedent or other person shall be admissible evidence for purposes of this section.

(b) This section shall apply retroactively to any individual who stands to inherit or receive property under a will or otherwise or benefit under the terms of any trust as the result of committing an intentional and unlawful killing prior to or after the effective date of this section.

Third: By striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. 4 V.S.A. § 278 is added to read:

§ 278. AUTHORIZATION OF ASSISTANT JUDGES TO RUN FOR THE OFFICE OF PROBATE JUDGE

(a) Notwithstanding any provision of law to the contrary, an assistant judge or a candidate for the office of assistant judge may also seek election to the office of probate judge, and if elected to both offices, may serve both as an assistant judge and as probate judge.

(b) In the event a probate matter arises in the superior court over which an assistant judge is also the probate judge that presides, or has presided, over the same or related probate matter in the probate court, the assistant judge shall be disqualified from hearing and deciding the probate matter in the superior court.

(c) In the event a probate matter arises in the probate court over which a probate judge is also an assistant judge that presides, or has presided, over the same or related probate matter in the superior court, the probate judge shall be disqualified from hearing and deciding the probate matter in the probate court.

Fourth: By adding five new sections to be numbered Secs. 10, 11, 12, 13, and 14 to read as follows:

Sec. 10. 27 V.S.A. § 1270 is amended to read:

§ 1270. DECEASED OWNERS; MULTIPLE CLAIMANTS

(a) If the treasurer holds unclaimed property in the name of a deceased owner, the treasurer may deliver the property as follows:

(1) In the case of an open estate, to the administrator or executor.

(2) In the case of a closed estate and the unclaimed property is valued at less than ~~\$2,500.00~~ \$5,000.00, in accordance with the probate court decree of distribution.

(3) In the absence of an open estate or probate court decree of distribution, and the unclaimed property is valued at less than ~~\$2,500.00~~ \$5,000.00 to the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin according to section 551 of Title 14.

(4) In all other cases where the treasurer holds property in the name of a deceased owner, a probate estate shall be opened by the claimant, or other interested party, in order to determine the appropriate distribution of the unclaimed property. Where an estate is opened solely to distribute unclaimed property under this section, the probate court may waive any filing fees.

(b) If the treasurer holds unclaimed property valued at ~~\$100.00~~ \$250.00 or less which more than one person owns, the treasurer may deliver the property as follows:

(1) If the property has been listed on the treasurer's website for less than one year, a proportionate share to each of the persons who owns the property and who files a claim.

(2) If the property has been listed on the treasurer's website for a year or more, to the first person who files a claim and who owns at least a share of the property.

Sec. 11. REPEAL

Sec. 2a of No. 161 of the Acts of the 2005 legislative session (sunset of subsection regarding multiple claimants of unclaimed property valued at \$100.00 or less) is repealed so that 27 V.S.A. § 1270(b) shall not be repealed on July 1, 2009.

Sec. 12. 8 V.S.A. § 14304 is added to read:

§ 14304. CARD HOLDER REPRESENTED BY LEGAL COUNSEL

(a) A credit card company or its creditor or collection agency shall not contact a card holder regarding a debt, late fee, or other charge once informed that the card holder is disputing the debt, late fee, or other charge and is represented by legal counsel in the dispute, and the card holder has provided the credit card company or its creditor or collection agency with the name, address, and telephone number of the legal counsel.

(b) A credit card company or its creditor or collection agency that violates subsection (a) of this section shall be fined not more than \$10,000.00.

(c) Each violation of subsection (a) of this section shall be considered a separate offense.

Sec. 13. 12 V.S.A. § 1612 is amended to read:

§ 1612. ~~PATIENTS'~~ PATIENT'S PRIVILEGE

(a) Confidential information privileged. Unless the patient waives the privilege or unless the privilege is waived by an express provision of law, a person authorized to practice medicine, chiropractic, or dentistry, a registered professional or licensed practical nurse, or a mental health professional as

defined in 18 V.S.A. § 7101(13) shall not be allowed to disclose any information acquired in attending a patient in a professional capacity, including joint or group counseling sessions, and which was necessary to enable the provider to act in that capacity.

(b) Identification by dentist; crime committed against patient under 16. A dentist shall be required to disclose information necessary for identification of a patient. A physician, dentist, chiropractor, or nurse shall be required to disclose information indicating that a patient who is under the age of 16 years has been the victim of a crime.

(c) Mental or physical condition of deceased patient.

(1) A physician, chiropractor, or nurse shall be required to disclose any information as to the mental or physical condition of a deceased patient privileged under subsection (a), except information which would tend to disgrace the memory of the decedent, either in the absence of an objection by a party to the litigation or when the privilege has been waived:

~~(1)~~(A) by the personal representative, or the surviving spouse, or the next of kin of the decedent; or

~~(2)~~(B) in any litigation where the interests of the personal representative are deemed by the trial judge to be adverse to those of the estate of the decedent, by any party in interest; or

~~(3)~~(C) if the validity of the will of the decedent is in question, by the executor named in the will, or the surviving spouse or any heir-at-law or any of the next of kin or any other party in interest.

(2) A physician, dentist, chiropractor, mental health professional, or nurse shall be required to disclose any information as to the mental or physical condition of a deceased patient privileged under subsection (a) of this section upon request to the chief medical examiner.

Sec. 14. EFFECTIVE DATE

(a) Secs. 1, 2, 3, 4, 5, 7, 10, 11 and 14 of this act shall take effect on passage. Sec. 5 of this act shall apply only to the estates of persons dying on or after the effective date of Sec. 5 this act, except that, in Sec. 5, 14 V.S.A. § 322 shall apply to any individual who stands to inherit or receive property under a will or otherwise or benefit under the terms of any trust as the result of committing an intentional and unlawful killing prior to, on, or after the effective date of Sec. 5.

(b) Secs. 6, 8, 9, 12 and 13 of this act shall take effect July 1, 2009.

Which was agreed to.

Third Reading Ordered**H. 433.**

Senator Doyle, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Joint Resolution Adopted in Concurrence**J.R.H. 26.**

Joint House resolution entitled:

Joint resolution relating to classified state employees.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Rules Suspended; Bills on Notice Calendar for Immediate Consideration

On motion of Senator Campbell, the rules were suspended, and the following bills and Joint resolution, appearing on the Calendar for notice, were ordered to be brought up for immediate consideration:

H.69, H. 205, H. 430, J.R.H. 15.

Third Readings Ordered**H. 69.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the city of Rutland.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 205.

Senator Brock, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to reporting to the Vermont criminal justice training council.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 430.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of an amendment to the charter of the town of St. Johnsbury .

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Rules Suspended; Bill Committed

H. 213.

Senate bill entitled:

An act to provide fairness to tenants in cases of contested housing security deposit withholding.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Finance, Senator Sears moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Judiciary with the report of the Committee on Finance *intact*,

Which was agreed to.

Consideration Postponed

Joint House resolution entitled:

J.R.H. 15.

Senator Campbell, for the Committee on Rules, to which was referred joint House resolution entitled:

Joint resolution relating to the designation of commemorative observances in concurrent resolutions.

Reported that the joint resolution ought to adopted in concurrence.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and pending the question, Shall the joint resolution be read a third time?, Senator Campbell moved that consideration of the joint resolution be postponed until the next legislative day.

Which was agreed to.

Notice of Withdrawal of Co-Sponsor

S. 144.

Pursuant to the request of Senator Choate, and having given notice of his intent to withdraw his name as a sponsor of Senate bill 144 entitled:

An act relating to patient choice and control at end of life.

Senator Choate's name was withdrawn as a sponsor of the bill.

Adjournment

On motion of Senator Campbell, the Senate adjourned until four o'clock in the afternoon on Thursday, April 30, 2009.