Journal of the Senate

THURSDAY, MAY 6, 2010

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Senate Resolution Placed on Calendar

S.R. 26.

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

By Senators Choate and Sears,

S.R. 26. Senate resolution urging Congress to enact H.R. 2754 that would amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment Program.

Whereas, every person in Vermont and the United States deserves access to affordable, high-quality health care, and

Whereas, there is a growing health care crisis in the United States due to an insufficient number of primary care doctors, and

Whereas, nurses are advocates and educators, providing care for individuals, families and communities, and

Whereas, nurse-managed health clinics provide to the residents of rural and urban underserved communities a full range of health care services based on the nursing model, including primary care, wellness care services, and mental health and substance abuse support services, and

Whereas, there are more than 200 nurse-managed health clinics currently in operation in the United States, and these clinics annually record over 2,000,000 client visits, and

Whereas, nurse-managed health clinics meet the Institute of Medicine's definition of safety-net provider by offering care regardless of their patients' ability to pay, and

Whereas, approximately 75 percent of health care spending in the United States is related to chronic care, approximately 133,000,000 people in the

United States (45 percent of the population) have at least one chronic disease, and these diseases account for 81 percent of hospital admissions, 91 percent of all prescriptions filled, and 76 percent of all physician visits, and

Whereas, as new strategies for increasing health coverage are implemented, utilization of nurse-managed health clinics will help meet the increased demand arising from newly-covered individuals while alleviating current primary care physician shortages, and

Whereas, in recognition of the growing need for nurse-managed health clinics, United States Senate Report 109-103 contained a call for the federal Bureau of Primary Health Care (BPHC) to "consider establishing a grant program that would support the establishment or expansion of nurse practice arrangements commonly referred to as nurse-managed health clinics," and

Whereas, United States Representative John Conyers, Jr. has introduced H.R. 2754 to amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment Program, and

Whereas, H.R. 2754 would establish a grant program within BPHC that is a better fit for the changing role of nurse-managed health clinics and that would provide nurse-managed health clinics access to a stable source of funding, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont urges Congress to enact H.R. 2754 that would amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment Program, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont congressional delegation and to the Vermont Nurse Practitioners' Association.

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

Proposal of Amendment; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment

H. 614.

Senator Lyons, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to the regulation of composting.

Reported recommending that the Senate propose to the House to amend the bill by adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. SUNSET OF COMPOSTING EXEMPTIONS

10 V.S.A. §§ 6001(3)(D)(vii) (composting exemptions), 6001(31) (definition of farm for compost exemptions) and 6001e (circumvention authority) shall be repealed July 1, 2012.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kittell, for the Committee on Agriculture, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By inserting a new section to be numbered Sec. 1 to read as follows:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Composting is a process by which organic material is mixed and tended to create a soil amendment that reduces runoff, increases plant fertility, and builds living soil;

(2) Composting is an agricultural practice that farmers traditionally have practiced in order to recycle nutrients and manage wastes on their farms;

(3) The benefits of composting include the recapture of nutrients and the rebuilding of soils, both of which also help to protect surface waters from nutrient runoff, improve soil productivity, mitigate the generation of greenhouse gases, and reduce the demands on the state's solid waste management system;

(4) The development of composting facilities that support Vermont's goals for waste recycling, nutrient redistribution, farm viability, and sustainable food systems should be encouraged;

(5) Composting on farms should be regulated as a traditional farming activity subject to the management practices or relevant rules adopted by the agency of natural resources (ANR) as enforced by ANR in conjunction with the agency of agriculture, food and markets.

Second: By striking out Sec. 1a in its entirety.

Third: In Sec. 3, 10 V.S.A. § 6001, by adding a new subdivision (33) to read as follows:

(33) "Compost" means a stable humus-like material produced by the controlled biological decomposition of organic matter through active

management, but shall not mean sewage, septage, or materials derived from sewage or septage.

Fourth: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. 6 V.S.A. § 4810 is amended to read:

§ 4810. AUTHORITY; COOPERATION; COORDINATION

(a) Agricultural land use practices. In accordance with 10 V.S.A. ~~1259(i)~~ § 1259(i), the secretary shall adopt by rule, pursuant to chapter 25 of Title 3, and shall implement and enforce agricultural land use practices in order to reduce the amount of agricultural pollutants entering the waters of the state. These agricultural land use practices shall be created in two categories, pursuant to subdivisions (1) and (2) of this subsection.

(1) "Accepted Agricultural Practices" (AAPs) shall be standards to be followed in conducting agricultural activities in this state. These standards shall address activities which have a potential for causing pollutants to enter the groundwater and waters of the state, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant to ~~section~~ 20 V.S.A. § 3902 ~~of Title 20~~, livestock and poultry slaughter and processing activities, and composting operations. The AAPs shall include, as well as promote and encourage, practices for farmers in preventing pollutants from entering the groundwater and waters of the state when engaged in, but not limited to, animal waste management and disposal, soil amendment applications, plant fertilization, and pest and weed control. Persons engaged in farming, as defined in ~~section~~ 10 V.S.A. § 6001 ~~of Title 10~~, who follow these practices shall be presumed to be in compliance with water quality standards. AAPs shall be practical and cost effective to implement. The AAPs for groundwater shall include a process under which the agency shall receive, investigate, and respond to a complaint that a farm has contaminated the drinking water or groundwater of a property owner. The AAPs for composting shall include practices for managing odor, dust, noise, and vectors.

(2) "Best Management Practices" (BMPs) may be required by the secretary on a case by case basis. Before requiring BMPs, the secretary shall determine that sufficient financial assistance is available to assist farmers in achieving compliance with applicable BMPs. BMPs shall be practical and cost effective to implement.

(b) Cooperation and coordination. The secretary of agriculture, food and markets shall coordinate with the secretary of natural resources in implementing and enforcing programs, plans and practices developed for

reducing and eliminating agricultural non-point source pollutants and discharges from concentrated animal feeding operations. The secretary of agriculture, food and markets and the secretary of natural resources shall develop a memorandum of understanding for the non-point program describing program administration, grant negotiation, grant sharing and how they will coordinate watershed planning activities to comply with Public Law 92-500. The secretary of agriculture, food and markets and the secretary of the agency of natural resources shall also develop a memorandum of understanding according to the public notice and comment process of ~~subsection~~ 10 V.S.A. § 1259(i) ~~of Title 10~~ regarding the implementation of the federal concentrated animal feeding operation program and the relationship between the requirements of the federal program and the state agricultural water quality requirements for large, medium, and small farms under chapter 215 of this title. The memorandum of understanding shall describe program administration, permit issuance, an appellate process, and enforcement authority and implementation. The memorandum of understanding shall be consistent with the federal National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. The allocation of duties under this chapter between the secretary of agriculture, food and markets and the secretary of natural resources shall be consistent with the secretary's duties, established under the provisions of ~~subsection~~ 10 V.S.A. § 1258(b) ~~of Title 10~~, to comply with Public Law 92-500. The secretary of natural resources shall be the state lead person in applying for federal funds under Public Law 92-500, but shall consult with the secretary of agriculture, food and markets during the process. The agricultural non-point source program may compete with other programs for competitive watershed projects funded from federal funds. The secretary of agriculture, food and markets shall be represented in reviewing these projects for funding. Actions by the secretary of agriculture, food and markets under this chapter concerning agricultural non-point source pollution shall be consistent with the water quality standards and water pollution control requirements of chapter 47 of Title 10 and the federal Clean Water Act as amended. In addition, the secretary of agriculture, food and markets shall coordinate with the secretary of natural resources in implementing and enforcing programs, plans, and practices developed for the proper management of composting facilities when those facilities are located on a farm.

And by renumbering section numbers of the bill to be numerically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the proposal of amendment of the Committee on Natural Resources and Energy be amended as recommended by the Committee on Agriculture?, Senator Kittell requested and was granted leave to substitute a proposal of amendment for the proposal of amendment of the Committee on Agriculture as follows:

First: By inserting a new section to be numbered Sec. 1 to read as follows:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Composting is a process by which organic material is mixed and tended to create a soil amendment that reduces runoff, increases plant fertility, and builds living soil;

(2) Composting is an agricultural practice that farmers traditionally have practiced in order to recycle nutrients and manage wastes on their farms;

(3) The benefits of composting include the recapture of nutrients and the rebuilding of soils, both of which also help to protect surface waters from nutrient runoff, improve soil productivity, mitigate the generation of greenhouse gases, and reduce the demands on the state's solid waste management system; and

(4) The development of composting facilities that support Vermont's goals for waste recycling, nutrient redistribution, farm viability, and sustainable food systems should be encouraged.

Second: By striking out Sec. 1a in its entirety.

Third: In Sec. 3, 10 V.S.A. § 6001, by adding a new subdivision (33) to read as follows:

(33) "Compost" means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage, septage, or materials derived from sewage or septage.

Fourth: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. 6 V.S.A. § 4810(b) is amended to read:

(b) Cooperation and coordination. The secretary of agriculture, food and markets shall coordinate with the secretary of natural resources in implementing and enforcing programs, plans and practices developed for reducing and eliminating agricultural non-point source pollutants and discharges from concentrated animal feeding operations. The secretary of

agriculture, food and markets and the secretary of natural resources shall develop a memorandum of understanding for the non-point program describing program administration, grant negotiation, grant sharing and how they will coordinate watershed planning activities to comply with Public Law 92-500. The secretary of agriculture, food and markets and the secretary of the agency of natural resources shall also develop a memorandum of understanding according to the public notice and comment process of ~~subsection~~ 10 V.S.A. § 1259(i) ~~of Title 10~~ regarding the implementation of the federal concentrated animal feeding operation program and the relationship between the requirements of the federal program and the state agricultural water quality requirements for large, medium, and small farms under chapter 215 of this title. The memorandum of understanding shall describe program administration, permit issuance, an appellate process, and enforcement authority and implementation. The memorandum of understanding shall be consistent with the federal National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. The allocation of duties under this chapter between the secretary of agriculture, food and markets and the secretary of natural resources shall be consistent with the secretary's duties, established under the provisions of ~~subsection~~ 10 V.S.A. § 1258(b) ~~of Title 10~~, to comply with Public Law 92-500. The secretary of natural resources shall be the state lead person in applying for federal funds under Public Law 92-500, but shall consult with the secretary of agriculture, food and markets during the process. The agricultural non-point source program may compete with other programs for competitive watershed projects funded from federal funds. The secretary of agriculture, food and markets shall be represented in reviewing these projects for funding. Actions by the secretary of agriculture, food and markets under this chapter concerning agricultural non-point source pollution shall be consistent with the water quality standards and water pollution control requirements of chapter 47 of Title 10 and the federal Clean Water Act as amended. In addition, the secretary of agriculture, food and markets shall coordinate with the secretary of natural resources in implementing and enforcing programs, plans, and practices developed for the proper management of composting facilities when those facilities are located on a farm.

And by renumbering sections of the bill to be numerically correct.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy?, was agreed to.

Senator Campbell Assumes the Chair

Thereupon, the question, Shall the Senate propose to the House to further amend the bill as recommended by the Committee on Agriculture, as substituted?, Senator White moved that the *second* proposal of amendment of the Committee on Agriculture be voted on separately.

Thereupon, the question, Shall the Senate propose to the House to further amend the bill as recommended by the Committee on Agriculture, as substituted?, in the *first*, *third* and *fourth* proposals of amendment?, was agreed to.

Senator Shumlin Assumes the Chair

Thereupon, the question, Shall the Senate propose to the House to further amend the bill as recommended by the Committee on Agriculture, as substituted, in the *second* proposal of amendment?, was disagreed to on a division of the Senate, Yeas 7, Nays 14.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Starr moved that the Senate propose to the House to amend the bill as follows:

First: In Sec, 3a, by striking out the following: "July 1, 2012" and inserting in lieu thereof the following: July 1, 2014

Second: By adding a new section to be numbered Sec. 3b to read as follows:

Sec. 3b. NATURAL RESOURCES BOARD REPORT

On or before January 15, 2012, and on or before January 15, 2014, the natural resources board, after consultation with the agency of agriculture, food and markets and the agency of natural resources, shall report to the senate and house committees on agriculture, the senate and house committees on natural resources and energy, and the house committee on fish, wildlife and water resources regarding the application of 10 V.S.A. chapter 151 to commercial composting operations in the state. The report shall include:

(1) the number of composting operations that have applied for an Act 250 permit since July 1, 2010, the disposition of those applications, and a short summary of the composting operation proposed in each application; and

(2) recommendations for extending, amending, or repealing the exemptions under 10 V.S.A. chapter 151 that relate to composting.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Kittell moved that the Senate propose to the House to amend the bill in Sec. 3, 10 V.S.A. § 6001, by striking out subdivision (31) in its entirety and inserting in lieu thereof the following:

(31) "Farm," for purposes of subdivisions (3)(D)(vii)(V) and (VI) of this section, means a parcel of land devoted primarily to farming, as farming is defined in subdivision (22)(A) or (B) of this section, and:

(A) from which parcel, annual gross income from farming, as defined in subdivision (22) of this section, exceeds the annual gross income from a composting operation on that parcel. For purposes of this section, a federal, state, or municipal highway or road shall not be determined to divide tracts of land that are otherwise physically contiguous;

(B) for purposes of subdivision (3)(D)(vii)(V) of this section, uses no more than 10 acres or 10 percent of the parcel, whichever is smaller, for commercial compost management, not including land used for liquid nutrients management;

(C) for purposes of subdivision (3)(D)(vii)(VI) of this section, uses no more than four acres or 10 percent of the parcel, whichever is smaller, for commercial compost management, not including land used for liquid nutrients management.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Senator Campbell Assumes the Chair

Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence

H. 793.

Senator Flanagan, 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 village of Essex Junction.

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.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence

H. 794.

Appearing on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and House bill entitled:

An act relating to approval of the merger of the town of Cabot and the village of Cabot.

Was taken up for immediate consideration.

Senator Doyle, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to passed 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.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Rules Suspended; Bill Amended; Third Reading Ordered

H. 488.

Appearing on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and Senate bill entitled:

An act relating to prohibiting the use of felt-soled boots and waders in the waters of Vermont.

Was taken up for immediate consideration.

Senator MacDonald, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4616 is added to read:

§ 4616. FELT-SOLED BOOTS AND WADERS; USE PROHIBITED

It is unlawful to use external felt-soled boots or external felt-soled waders in the waters of Vermont, except that a state or federal employee or emergency personnel, including fire, law enforcement, and EMT personnel, may use external felt-soled boots or external felt-soled waders in the discharge of official duties.

Sec. 2. 10 V.S.A. § 4572 is amended to read:

§ 4572. DEFINITIONS

(a) As used in this subchapter, a minor fish and game violation means:

(1) A violation of 10 V.S.A. § 4145 (violation of access and landing area rules);

(2) A violation of 10 V.S.A. § 4251 (taking wild animals and fish without a license);

(3) A violation of 10 V.S.A. § 4266 (failure to carry a license on person or failure to exhibit license);

(4) A violation of 10 V.S.A. § 4267 (false statements in license application; altering license; transferring license to another person; using another person's license; or guiding an unlicensed person); ~~or~~

(5) A violation of 10 V.S.A. § 4713 (tree or ground stands or blinds); or

(6) A violation of 10 V.S.A. § 4616 (use of external felt-soled boots or external felt-soled waders).

(b) "Bureau" means the judicial bureau as created in 4 V.S.A. § 1102.

Sec. 3. ANR PUBLIC OUTREACH REGARDING FELT-SOLED PROHIBITION

To provide education and outreach to the public regarding the prohibition on the use of external felt-soled boots and felt-soled waders under 10 V.S.A. § 4616, the agency of natural resources shall:

(1) post signage regarding the prohibition on the use of external felt-soled boots and felt-soled waders at access points to state surface waters;

(2) include a notification regarding the prohibition on the use of external felt-soled boots and felt-soled waders and instructions for checking, cleaning, and drying equipment to prevent the spread of didymo and other aquatic nuisance diseases on hunting and fishing license applications or in department

of fish and wildlife printed materials made available where hunting and fishing licenses are sold.

Sec. 4. PENALTIES FOR USE OF FELT-SOLED BOOTS AND FELT-SOLED WADERS PRIOR TO JULY 1, 2010

Prior to July 1, 2010, a person violating 10 V.S.A. § 4616 (felt-soled prohibition) shall be issued a warning. A second violation prior to July 1, 2010, shall be enforceable under the judicial bureau as a minor fish and game violation.

Sec. 5. REPEAL

Sec. 4 of this act shall be repealed July 1, 2010.

Sec. 6. EFFECTIVE DATE

This act shall take effect upon passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

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

Rules Suspended; Bills Messaged

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 614, H. 793, H. 794.

Adjournment

On motion of Senator Mazza, the Senate recessed until three o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Recess

On motion of Senator Ayer the Senate recessed until 4 P.M..

Called to Order

At 4 P.M. the Senate was called to order by the President.

House Proposal of Amendment Concurred In

S. 64.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by striking out Secs. 2 (creation of growth center board), 3 (changes to growth center designation process), 4 (enterprise zone study committee), and 5 (effective dates; transition; application) in their entirety and inserting in lieu thereof new Secs. 2, 3, 4, 5, and 6 to read as follows:

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

§ 2792. VERMONT DOWNTOWN DEVELOPMENT BOARD

(a) A "Vermont downtown development board," also referred to as the "state board," is created to administer the provisions of this chapter. The state board shall be composed of the following members~~,~~ or their designees:

(1) ~~The~~ the secretary of commerce and community development;

(2) ~~The~~ the secretary of transportation;

(3) ~~The~~ the secretary of natural resources;

(4) the commissioner of public safety;

(5) the state historic preservation officer;

(6) a person appointed by the governor from a list of three names submitted by the Vermont Natural Resources Council, the Preservation Trust of Vermont, and Smart Growth Vermont;

(7) a person appointed by the governor from a list of three names submitted by the Association of Chamber Executives; ~~and~~

(8) three public members representative of local government, one of whom shall be designated by the Vermont ~~league of cities and towns~~ League of Cities and Towns, and two shall be appointed by the governor;

(9) a member of the Vermont planners association (VPA) designated by the association;

(10) the chair of the natural resources board or a representative of the land use panel of the natural resources board designated by the chair; and

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

(b) In addition to the permanent members appointed pursuant to subsection (a) of this section, there shall also be two regional members from each region of the state on the downtown development board; one shall be designated by the regional development corporation of the region and one shall be designated by the regional planning commission of the region. Regional members shall be nonvoting members and shall serve during consideration by the board of applications from their respective regions. Regional members designated to serve on the downtown development board under this section, may also serve as regional members of the Vermont economic progress council established under 32 V.S.A. § 5930a.

(c) The state board shall elect its chair from among its membership.

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

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

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

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

§ 2793c. DESIGNATION OF GROWTH CENTERS

* * *

(b) Growth center designation application assistance.

(1) ~~By October 1, 2006, the chair of the land use panel of the natural resources board and the commissioner of housing and community affairs jointly shall constitute a planning coordination group which shall develop a coordinated process to:~~ A subcommittee of the state board, to be known as the growth center subcommittee, shall develop and maintain a coordinated preapplication review process in accordance with this subdivision (1). The members of the growth center subcommittee shall be the members of the state board described under subdivisions 2792(1), (6), (7), (9), and (10) of this title and the member designated by the Vermont League of Cities and Towns under subdivision 2792(8) of this title. The growth center subcommittee shall elect a chair from among its members. In carrying out its duties, the growth center subcommittee shall have the support of the staff of the department of economic, housing, and community development and of the natural resources board.

(A) The purpose of the growth center subcommittee is to:

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

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

~~(C)~~(iii) ~~coordinate~~ encourage coordination of state agency review on matters of agency interest; and

~~(D)~~(iv) provide the state board with ongoing, coordinated ~~staff~~ support and expertise in land use, community planning, and natural resources protection.

(B) Under the preapplication review process, a municipality shall submit a preliminary application to the growth center subcommittee, consisting of a draft growth center map and a brief explanation of planning and implementation policies that the municipality anticipates it will enact prior to submission of an application under subsection (d) of this section in order to guide development inside the growth center and maintain the rural character of the surrounding area, to the extent that it exists. This preapplication review process shall be required prior to filing of an application under subsection (d) of this section. The growth center subcommittee shall solicit comments from

state agencies regarding areas of respective agency interest; evaluate the preliminary application for conformance with the requirements of this section; identify potential issues related to the growth center's boundary and implementation tools; and provide recommendations for addressing those issues through adjustment to the growth center's boundary, revisions to planned implementation tools, or consideration of alternative implementation tools. Preliminary review shall be available to municipalities while they are engaged in the municipal planning process so that recommendations may be considered prior to the adoption of the municipal plan and associated implementation measures.

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

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

~~(B) A preapplication review process that allows municipalities to submit a preliminary application to the planning coordination group, consisting of a draft growth center map and a brief explanation of planning and implementation policies that the municipality anticipates enacting in order to guide development inside the growth center and maintain the rural character of the surrounding area, to the extent that it exists. Department and land use panel staff shall solicit comments from state agencies regarding areas of respective agency interest; evaluate the preliminary application for conformance with the requirements of this section; identify potential issues related to the growth center boundary and implementation tools; and provide recommendations for addressing those issues through adjustment to the growth~~

~~centers boundary, revisions to planned implementation tools, or consideration of alternative implementation tools. Preliminary review shall be available to municipalities while they are engaged in the municipal planning process so that recommendations may be considered prior to the adoption of the municipal plan and associated implementation measures.~~

~~(C) Ongoing~~ (3) In consultation with the growth center subcommittee, the commissioner of economic, housing and community development or designee shall provide ongoing assistance to the state board to review applications for growth center designation, including coordinating review by state agencies on matters of agency interest and evaluating applications and associated plan policies and implementation measures for conformance with the definition under subdivision 2791(12) of this title and any designation requirements established under subsection (e) of this section.

~~(D)~~(4) The Vermont municipal planning grant program shall make funding for activities associated with growth centers planning a priority funding activity, and the Vermont community development program shall make funding for activities associated with growth centers planning a priority funding activity under the planning grant program.

* * *

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

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

(2) Any demonstration that an application complies with subdivision (e)(1)(C) of this section shall include an analysis, with respect to each existing designated downtown or village or new town center located within the applicant municipality, of current vacancy rates, opportunities to develop or redevelop existing undeveloped or underdeveloped properties and whether such opportunities are economically viable, and opportunities to revise zoning

or other applicable bylaws in a manner that would permit future development that is at a higher density than existing development.

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

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

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

~~(5) a demonstration:~~

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

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

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

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

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

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

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

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

~~(8) a demonstration:~~

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

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

(5) An explanation of all measures the applicant has undertaken to encourage a majority of growth in the municipality to take place within areas designated under this chapter. In the case of a growth center that is associated with a designated downtown or village center, the applicant shall also explain the manner in which the applicant's bylaws and policies will encourage growth to take place first in its designated downtown or village center and second in its proposed growth center.

(e) Designation decision.

(1) Within 90 days of the receipt of a completed application, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard, the state board formally shall designate a growth center if the state board finds, in a written decision, that the growth center proposal meets each of the following:

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

requirements of this section. This subdivision (A) does not confer authority to approve a growth center that lacks more than one characteristic listed in subdivision 2791(12)(B) of this title.

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

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

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

(E) In the case of a growth center that is associated with a designated downtown or village center:

(i) the applicant has taken all reasonable measures to ensure that growth is encouraged to take place first in the designated downtown or village center and second in the proposed growth center; and

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

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

(II) such areas will be subject to enacted land use and development standards that will establish a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles.

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

~~(C) that the~~ (G) The approved municipal plan and the regional plan both have been updated during any five-year plan readoption that has taken place since the date the secretary of agriculture, food and markets has

developed guidelines in compliance with 6 V.S.A. § 8, have been used to identify areas proposed for agriculture, and have been designed so as to avoid the conversion of primary agricultural soils, wherever possible~~;~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

(3) Within 21 days of a growth center designation under subdivision (1) of this subsection, a person or entity that submitted written or oral comments to the state board during its consideration of the application for the designated growth center may request that the state board reconsider the designation. Any such request for reconsideration shall identify each specific finding of the state board for which reconsideration is requested and state the reasons why each such finding should be reconsidered. The filing of such a request shall stay the effectiveness of the designation until the state board renders its decision on the request. On receipt of such a request, the state board shall promptly notify the applicant municipality of the request if that municipality is not the requestor. The state board shall convene at the earliest feasible date to consider the request and shall render its decision on the request within 90 days of the date on which the request was filed.

(4) Except as otherwise provided in this section, growth center designation shall extend for a period of 20 years. The state board shall review a growth center designation no less frequently than every five years, after providing notice as required in the case of a proposed municipal plan or

amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard. For each applicant, the state board may adjust the schedule of review under this subsection so as to coincide with the review of the related and underlying designation of a downtown, village center, or new town center. If, at the time of the review, the state board determines that the growth center no longer meets the standards for designation ~~established in this section~~ in effect at the time the growth center initially was designated, it may take any of the following actions:

* * *

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

* * *

Sec. 4. 24 V.S.A. § 2793d is amended to read:

§ 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

(a) A municipality that has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title, has adopted zoning bylaws and subdivision regulations in accordance with section 4442 of this title, and has a designated downtown district, a designated village center, a designated new town center, or a designated growth center served by municipal sewer infrastructure or a community or alternative wastewater system approved by the agency of natural resources, is authorized to apply for designation of a Vermont neighborhood. A municipal decision to apply for designation shall be made by the municipal legislative body after at least one duly warned public hearing. Designation is possible in two different situations:

* * *

(2) Designation by ~~expanded~~ downtown board in towns without growth centers. If an application is submitted in compliance with this subsection by a municipality that does not have a designated growth center and proposes to create a Vermont neighborhood that has boundaries that include land that is not within its designated downtown, village center, or new town center, the ~~expanded~~ downtown board shall consider the application. This application may be for approval of one or more Vermont neighborhoods that are outside but contiguous to a designated downtown district, village center, or new town center. The application for designation shall include a map of the boundaries of the proposed Vermont neighborhood, including the property outside but

contiguous to a designated downtown district, village center, or new town center and verification that the municipality has notified the regional planning commission and the regional development corporation of its application for this designation.

(b) Designation Process. Within 45 days of receipt of a completed application, the ~~expanded~~ downtown board, after opportunity for public comment, shall designate a Vermont neighborhood if the board determines the applicant has met the requirements of subsections (a) and (c) of this section. When designating a Vermont neighborhood, the board may change the boundaries that were contained in the application by reducing the size of the area proposed to be included in the designated neighborhood, but may not include in the designation land that was not included in the application for designation. A Vermont neighborhood decision made by the ~~expanded~~ board is not subject to appeal. Any Vermont neighborhood designation shall terminate when the underlying downtown, village center, new town center, or growth center designation terminates.

* * *

(e) Length of Designation. Initial designation of a Vermont neighborhood shall be for a period of five years, after which, the ~~expanded~~ state board shall review a Vermont neighborhood concurrently with the next periodic review conducted of the underlying designated downtown, village center, new town center or growth center, even if the underlying designated entity was originally designated by the downtown board and not by the ~~expanded~~ state board. However, the ~~expanded~~ board, on its motion, may review compliance with the designation requirements at more frequent intervals. If at any time the ~~expanded~~ state board determines that the designated Vermont neighborhood no longer meets the standards for designation established in this section, it may take any of the following actions:

* * *

Sec. 5. PAYMENT FOR UTILITY BURIAL; DESIGNATED AREAS; WORKSHOP; REPORT

(a) On or before November 1, 2010, the public service board shall conduct a workshop and, following the workshop and no later December 15, 2010, the department of public service shall submit a report containing recommendations on the question of paying for the burial of utility facilities and apparatus that are located in a designated downtown development district, designated village center, designated new town center development district, designated growth center, or designated Vermont neighborhood under chapter 76A of Title 24. The workshop and report shall address, evaluate, and include recommendations

on at least each of the following possibilities for payment for the burial of such facilities and apparatus:

(1) Payment by the utility.

(2) Payment by the customers of the utility located within the boundary of the municipality containing the designated area, through a surcharge on rates.

(3) Payment by the customers of the utility located within the boundary of the designated area, through a surcharge on rates.

(4) Shared payment by the utility and the municipality.

(5) Payment by the municipality.

(6) Other sources of and arrangements for payment.

(b) The department shall apply 24 V.S.A. § 2790 (historic downtown development; legislative policy and purpose) and 30 V.S.A. § 202a (state energy policy) in performing the evaluations and making the recommendations contained in the report.

(c) The board shall give at least 12 days' prior notice of the workshop to the Vermont downtown development board under 24 V.S.A. § 2792; the agencies of commerce and community development, of natural resources, and of transportation; the department of public service; the natural resources board; the state historic preservation officer; the Vermont Natural Resources Council; the Preservation Trust of Vermont; Smart Growth Vermont; the Association of Chamber Executives; the Vermont League of Cities and Towns; the Vermont Planners Association; the Vermont Association of Regional Planning and Development Agencies; the utilities that provide electric transmission or distribution, cable television, or local telephone exchange service in Vermont; and such other entities as have requested prior notice or whom the board determines should receive notice. A representative of the department of public service shall attend and participate in the workshop.

(d) The report shall be submitted to the house and senate committees on natural resource and energy.

(e) For the purpose of this section, "utility" means a person or entity producing, transmitting, or distributing communications, cable television, electricity, or other similar commodity that directly or indirectly serves the public.

Sec. 6. EFFECTIVE DATES; DESIGNATIONS; APPLICATION

(a) This section and Sec. 5 of this act shall take effect on passage.

(b) No later than July 1, 2010, the Vermont planners association and the Vermont association of regional planning and development shall designate the members of the Vermont downtown development board described in Sec. 2 of this act, 24 V.S.A. § 2792(a)(9) and (11), that those provisions authorize them respectively to designate.

(c) Secs. 1 through 4 of this act shall take effect on July 1, 2010, and shall apply to applications for designation under 24 V.S.A § 2793c that are filed and to reviews of designations under 24 V.S.A § 2793c(e)(4) that are commenced on or after July 1, 2010.

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

Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment

H. 488.

On motion of Senator Mazza, the rules were suspended and Senate bill entitled:

An act relating to prohibiting the use of felt-soled boots and waders in the waters of Vermont.

Was taken up for immediate consideration.

Thereupon, pending third reading of the bill, Senator Scott moved to amend the Senate proposal of amendment as follows:

First: In Sec. 3, after the following: "regarding the prohibition" by inserting the following: , beginning April 1, 2011,

Second: By striking out Secs. 4 (penalties for felt-soled use prior to July 1, 2010), 5 (repeal of penalties for felt-soled use prior to July 1, 2010), and 6 (effective date) and inserting in lieu thereof the following:

Sec. 4. EFFECTIVE DATES

(a) This section and Sec. 3 (education and outreach regarding felt-soled prohibition) of this act shall take effect upon passage.

(b) Secs. 1 (prohibition on use of felt-soled boots and waders) and 2 (minor fish and game violations) shall take effect April 1, 2011.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 779.

Appearing on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and House bill entitled:

An act relating to potable water supply and wastewater system permits.

Was taken up for immediate consideration.

Senator McCormack, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 1a in its entirety.

And that the bill ought to pass in concurrence with such proposal of amendment.

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

Rules Suspended; House Proposal of Amendment Concurred In

S. 218.

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

An act relating to voyeurism.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill in

In Sec. 1, 13 V.S.A. § 2605(e), after the following: "while that person is" by inserting the following: in a place where a person has a reasonable expectation of privacy and that person is

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

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 282.

Appearing on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

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

Was taken up for immediate consideration.

Senator Scott, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 282. An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles.

Respectfully reports that it has met and considered the same and recommends that the Senate concur with the House proposal of amendment, and the bill be further amended as follows:

First: By adding new sections to be sections 19a–19l to read:

Sec. 19a. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

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

* * *

(18) "Motorcycle" shall mean any motor driven vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding ~~mopeds~~ motor-driven cycles, golf carts, track driven vehicles, tractors, electric personal assistive mobility devices, and vehicles on which the operator and passengers ride within an enclosed cab, except that a vehicle which is fully enclosed, has three wheels in contact with the ground, weighs less than 1,500 pounds, has the capacity to maintain posted highway speed limits, and which uses electricity as its primary motive power shall be registered as a motorcycle but the operator of such vehicle shall not be required to have a motorcycle endorsement nor to comply with the provisions of section 1256 of this title (motorcycles-headgear) in the operation of such a vehicle.

* * *

(45) ~~"Moped"~~ "Motor-driven cycle" means ~~a motor driven cycle~~ any vehicle equipped with two or three wheels, ~~foot pedals to permit muscular propulsion,~~ a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, ~~mopeds~~ motor-driven cycles shall be subject to the purchase and use tax imposed under chapter 219 of Title 32 rather than to a general sales tax. An electric personal assistive mobility device is not a ~~moped~~ motor-driven cycle.

* * *

Sec. 19b. 23 V.S.A. § 364a is amended to read:

§ 364a. ~~MOPEDS~~ MOTOR-DRIVEN CYCLES: REGISTRATION; FINANCIAL RESPONSIBILITY

(a) The annual fee for registration of a ~~mo-ped~~ motor-driven cycle shall be $20.00.

(b) ~~Mo-ped~~ Motor-driven cycle operators shall be subject to the provisions of section 801 of this title, which requires, in certain cases, that proof of financial responsibility to be filed with the commissioner after an accident.

Sec. 19c. 23 V.S.A. § 453(d) is amended to read:

(d) If a dealer is engaged only in the manufacturing, buying, selling, or exchanging of motorcycles or ~~mopeds~~ motor-driven cycles, the registration fee shall be $45.00, which shall include three sets of number plates. The commissioner may, in his or her discretion, furnish further sets of plates at a fee of $10.00 for each set.

Sec. 19d. 23 V.S.A. § 476 is amended to read:

§ 476. MOTOR VEHICLE WARRANTY FEE

A motor vehicle warranty fee of $5.00 is imposed on the registration of each new motor vehicle in this state not including trailers, tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, ~~mopeds~~ motor-driven cycles, or trucks with a gross vehicle weight over 12,000 pounds.

Sec. 19e. 23 V.S.A. § 601(e) is amended to read:

(e) A ~~mo-ped~~ motor-driven cycle may be operated only by a licensed driver at least 16 years of age.

Sec. 19f. 23 V.S.A. § 1114 is amended to read:

§ 1114. RIDING ON MOTORCYCLES AND ~~MOPEDS~~ MOTOR-DRIVEN CYCLES

(a) A person operating a motorcycle or ~~moped~~ motor-driven cycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle or ~~moped~~ motor-driven cycle unless such motorcycle or ~~moped~~ motor-driven cycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle or ~~moped~~ motor-driven cycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle or ~~moped~~ motor-driven cycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle or ~~moped~~ motor-driven cycle.

(c) No person shall operate a motorcycle or ~~moped~~ motor-driven cycle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or ~~moped~~ motor-driven cycle or the view of the operator.

Sec. 19g. 23 V.S.A. § 1115 is amended to read:

§ 1115. ~~—~~OPERATING MOTORCYCLES AND ~~MOPEDS~~ MOTOR-DRIVEN CYCLES ON ROADWAYS LANED FOR TRAFFIC

(a) All motorcycles or ~~mopeds~~ motor-driven cycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle or ~~moped~~ motor-driven cycle of the full use of a lane.

(b) The operator of a motorcycle or ~~moped~~ motor-driven cycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a motorcycle or ~~moped~~ motor-driven cycle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) No motorcycle or ~~moped~~ motor-driven cycle may be operated in the same lane with, and along side of or closer than ten feet ahead of, or ten feet behind another motorcycle, ~~moped~~ motor-driven cycle, or other motor vehicle.

* * *

Sec. 19h. 23 V.S.A. § 1116 is amended to read:

§ 1116. —CLINGING TO OTHER VEHICLES

No person riding a motorcycle or ~~moped~~ motor-driven cycle shall attach himself or herself or the motorcycle or ~~moped~~ motor-driven cycle to any other vehicle on a roadway.

Sec. 19i. 23 V.S.A. § 1117 is amended to read:

§ 1117. —FOOTRESTS AND HANDLEBARS

(a) Any motorcycle or ~~moped~~ motor-driven cycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

(b) No person shall operate any motorcycle or ~~moped~~ motor-driven cycle with handlebars more than 15 inches in height above that portion of the seat occupied by the operator.

Sec. 19j. 23 V.S.A. § 1243(a) is amended as follows:

(a) A motor vehicle, except a motorcycle and ~~moped~~ motor-driven cycle, in use or at rest on a highway, unless otherwise provided, during the period from 30 minutes after sunset to 30 minutes before sunrise, shall also be equipped with at least two lighted head lamps of substantially the same intensity and with reflectors and lenses of a design approved by the commissioner of motor vehicles, and with a lighted tail or rear lamp of a design so approved. A motorcycle or ~~moped~~ motor-driven cycle may be operated during the period mentioned if equipped with at least one lighted head lamp and at least one lighted tail or rear lamp, both of a design approved by the commissioner of motor vehicles. A side car attached to such motorcycle or ~~moped~~ motor-driven cycle shall be equipped with a light on the right side of such side car visible from the front thereof. A person shall not operate a motor vehicle during the period mentioned unless it is equipped as defined in this section.

Sec. 19k. 23 V.S.A. § 2012 is amended to read:

§ 2012. EXEMPTED VEHICLES

No certificate of title need be obtained for:

* * *

(8) A ~~moped~~ motor-driven cycle;

* * *

Sec. 19l. 9 V.S.A. § 4171(6) is amended to read:

(6) "Motor vehicle" means a passenger motor vehicle which is purchased or leased, or registered in the state of Vermont and shall not include tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, ~~mopeds~~ motor-driven cycles, or the living portion of recreation vehicles, or trucks with a gross vehicle weight over 12,000 pounds.

Second: In Sec. 20, by inserting a new subsection to be subsection (d) to read as follows:

(d) Secs. 19a–19l shall take effect on September 1, 2010.

M. JANE KITCHEL
PHILIP B. SCOTT
RICHARD T. MAZZA

Committee on the part of the Senate

WILLIAM N. ASWAD
PATRICK M. BRENNAN
GALE P. COURCELLE

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Proposals of Amendment; Third Reading Ordered

H. 781.

Appearing on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and House bill entitled:

An act relating to renewable energy.

Was taken up for immediate consideration.

Senator Lyons, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 3, 30 V.S.A. § 8005(b)(2)(F), in subdivision (i)(III), after the following: "provider to supply energy" by inserting the following: or attributes, including tradeable renewable energy credits and in subdivision (iv), by striking out the second and third sentences

Second: In Sec. 11, 30 V.S.A. § 5930z, in subdivision (c)(1)(D), by striking out the following: "July 15, 2010" and inserting in lieu thereof the following: December 31, 2010 and in subdivision (c)(2)(B), by striking out the following: "July 15, 2010" and inserting in lieu thereof the following: December 31, 2010

Third: In Sec. 12 (renewable energy property tax study committee), in subsection (c), by striking out subdivision (4) (adverse impacts to neighboring municipalities) and renumbering subdivisions (5) and (6) respectively to be (4) and (5)

Fourth: After Sec. 13 by inserting two new sections to be numbered Secs. 13a and 13b to read as follows:

* * * Report on Potential Renewable Portfolio Standard, Potential Revision to SPEED Program * * *

Sec. 13a. RENEWABLE PORTFOLIO STANDARD; SPEED PROGRAM; BOARD REPORT

(a) Findings. The general assembly finds that:

(1) In 2005, Vermont enacted a renewable portfolio standard (RPS).

(2) The 2005 RPS required that each retail electric utility shall supply an amount of energy equal to its total incremental energy growth between January 1, 2005, and January 1, 2012, through the use of electricity generated by new renewable resources.

(3) In 2005, the general assembly deferred the effective date of the RPS to allow implementation of the Sustainably Priced Energy Enterprise Development (SPEED) program. The SPEED program was and is designed to promote the development of in-state renewable energy resources.

(4) 30 V.S.A. § 8005(d)(1) provides that the RPS will go into effect only if one of the following SPEED goals is not met:

(A) the amount of qualifying SPEED resources coming into service or having been issued a certificate of public good after January 1, 2005, and before July 1, 2012, equals or exceeds total statewide growth in electric retail sales during that time, and in addition, at least five percent of the 2005 total statewide electric retail sales is provided by qualified SPEED resources or would be provided by qualified SPEED resources that have been issued a certificate of public good; or

(B) the amount of qualifying SPEED resources equals or exceeds 10 percent of total statewide electric retail sales for calendar year 2005.

(5) In 2005, the general assembly also adopted a state goal to assure that 20 percent of total statewide electric retail sales before July 1, 2017, shall be generated by SPEED resources. This particular goal is voluntary. It is separate from an RPS. It does not affect whether or not an RPS comes into effect.

(6) Although a purpose of the SPEED program is to encourage in-state renewable energy resources, the SPEED statute allows its 2012 and 2017 goals to be fulfilled by electricity at all facilities owned by or under long-term contract to Vermont utilities, as long as the generating resource came into service after December 31, 2004.

(7) In a February 2010 report to the general assembly, the public service board stated that, based on load growth since 2005 and the activities of the SPEED program, it is likely that the SPEED goal will be met and an RPS will not come into effect. The board stated that:

(A) From January 1, 2005, to December 31, 2008, statewide energy usage decreased by approximately 0.1 percent.

(B) The SPEED goal of providing at least five percent of the January 1, 2005, total statewide electric retail sales from qualified SPEED resources translates into a goal of 287,421 MWh annually.

(C) The total estimated annual output of qualifying SPEED resources that are operating, approved, or pending before the board was 574,141 MWh.

(8) The total estimate annual output of SPEED resources stated in subdivision (5)(C) of this subsection is approximately 10 percent of Vermont's 2008 electric energy demand, which was 5,743,863,352 MWh.

(9) During the five years since Vermont adopted an RPS, other jurisdictions have adopted or amended their own renewable portfolio standards, including:

(A) Connecticut, which in 2007 amended its existing RPS to establish a goal that at least 23 percent of its retail load will be supplied using renewable energy by 2020.

(B) Massachusetts, which in 2008 amended its existing RPS to establish a goal that renewable energy will account for 15 percent of electricity consumption by 2020, increasing by one percent per year thereafter.

(C) New Hampshire, which in 2007 adopted an RPS that requires electricity providers to acquire renewable energy certificates (RECs) equivalent to 23.8 percent of retail electricity sold to customers by 2025.

(10) This act revises the statutory definition of "renewable" to remove a 200-MW limit on the size of hydroelectric facilities that can be considered renewable. The act delays the effective date of this revision so that it does not affect the 2012 SPEED goals described in subdivision (4) of this subsection. However, the revision could affect achievement of the 2017 SPEED goal described in subdivision (5) of this subsection, as well as the achievement of an RPS should one come into effect in Vermont.

(11) The general assembly has already recognized the environmental and economic benefits of encouraging renewable energy in adopting 30 V.S.A. §§ 202a (state energy policy) and 8001 (renewable energy goals). In light of these benefits, the history and structure of the SPEED program, and the adoption and expansion of renewable portfolio standards in other jurisdictions, there should be a reexamination of the potential implementation of an RPS in Vermont and, in lieu of such implementation, the potential revision of the goals and requirements of the SPEED program.

(b) No later than February 1, 2011, the public service board shall file a report concerning the potential development of a renewable portfolio standard (RPS) in Vermont to amend or replace the RPS enacted in 2005 and the potential revision of the goals and requirements of the SPEED program in lieu of such an RPS.

(1) The report shall be filed with the house and senate committees on natural resources and energy, the house committee on commerce and economic development and the senate committee on finance.

(2) The report shall include at least the following:

(A) An evaluation of whether or not Vermont should adopt an RPS to amend or replace the RPS adopted in 2005 or, in lieu of adopting such an RPS, should adopt revised goals and requirements for the SPEED program.

(B) An evaluation of whether the voluntary goals and aspects of the SPEED program should be made mandatory.

(C) An evaluation of the economic and environmental benefits and costs of adopting an RPS at each of the following percentages of Vermont's electricity supply portfolio: 25, 50, 75, and 100 percent. The board shall also perform the same evaluation with respect to the imposition of mandatory SPEED goals at the same portfolio percentages.

(D) An evaluation of the effect on the development of in-state renewable energy resources that may occur if an RPS is adopted and, under such an RPS, out-of-state resources with capacities in excess of 200 MW are considered renewable. The board shall also perform the same evaluation with

respect to the imposition of mandatory SPEED goals. Such evaluations shall take into account each of the percentages discussed under subdivision (2)(A) of this subsection.

(E) Analysis of RPS statutes and rules that have been adopted in other jurisdictions and their strengths and weaknesses, and a discussion of how a Vermont RPS and, in lieu of an RPS, revised SPEED goals and requirements might integrate with such statutes and rules.

(F) Consideration of whether or not Vermont should adopt a potential definition of renewable resources that includes tiers or classes and a recommended proposal for such a definition.

(G) Consideration of the manner in which Vermont would require third party certification that an energy resource is renewable.

(H) Consideration of the manner in which Vermont would require third party certification that a renewable resource has low environmental impact.

(I) Consideration of the extent to which a Vermont RPS and, in lieu of such an RPS, revised SPEED goals and requirements would include the purchase of electric energy efficiency resources and the appropriate means of verification that the associated energy savings are achieved.

(J) Consideration of whether 30 V.S.A. § 8005(d)(3) (resources that count toward SPEED goals) should be revised with respect to the description of those SPEED resources that will count toward the 2017 SPEED goal described in subdivision (a)(5) of this section.

(K)(i) Proposals for each of the following:

(I) An RPS to be considered for adoption in Vermont.

(II) In lieu of such an RPS, revised goals and requirements for the SPEED program to be considered for adoption in Vermont.

(ii) Each of these proposals shall include a summary of the proposal, a discussion of each major component, the reasons for the proposal, and draft statutory language for the proposal.

(3) The report may address any other issues that the board determines to be relevant to the adoption in Vermont of an RPS and revised goals and requirements for the SPEED program.

(4) Prior to drafting and submitting the report, the board shall consult with interested and affected persons and entities such as the department of

public service, other state agencies, utilities, environmental advocates, consumer advocates, and business organizations.

(c) In performing its duties under this section, the board shall have authority to retain expert witnesses, counsel, advisors, and stenographic and other research assistance it may require. The board may compensate the same and allocate related costs, as well as the costs of performing or procuring studies, to retail electricity providers in the same manner authorized for personnel in particular proceedings under 30 V.S.A. §§ 20 and 21.

* * * Environmental Attributes; Utility Revenues * * *

Sec. 13b. 30 V.S.A. § 8008 is added to read:

§ 8008. AGREEMENTS; ATTRIBUTE REVENUES; DISPOSITION BY BOARD

(a) For the purpose of this section, "the revenues" means revenues that are from the sale, through tradeable renewable energy certificates or other means, of environmental attributes associated with the generation of renewable energy from a system of generation resources with a total plant capacity greater than 200 MW and that are received by a Vermont retail electricity provider on and after May 1, 2012, pursuant to an agreement, contract, memorandum of understanding, or other transaction in which a person or entity agrees to transfer such revenues or rights associated with such attributes to the provider.

(b) After notice and opportunity for hearing, the board shall determine the disposition, allocation, and use of the revenues in a manner that promotes state energy policy as stated in section 202a of this title and the goals of this chapter and supports achievement of the greenhouse gas reduction and building efficiency goals contained in 10 V.S.A. §§ 578(a) and 581.

(1) The board shall provide notice of the proceeding to each Vermont retail electricity provider, the department of public service, the clean energy development board under 10 V.S.A. § 6523, each fuel efficiency service provider appointed under subsection 203a(b) of this title, each energy efficiency entity appointed under subdivision 209(d)(2) of this title, the institute for energy and the environment at the Vermont Law School, the transportation research center at the University of Vermont, and any other persons or entities that have requested notice. The board may provide notice to additional persons or entities.

(2) In determining the disposition, allocation, and use of the revenues, the board shall consider each of the following potential uses of the revenues:

(A) Development of in-state renewable energy resources.

(B) Deposit into the clean energy development fund for use pursuant to 10 V.S.A. § 6523.

(C) Deposit into the fuel efficiency fund for use pursuant to 10 V.S.A. § 203a.

(D) Deposit into the electric efficiency fund for use pursuant to 10 V.S.A. § 209(d).

(E) Application, for the benefit of ratepayers, to the revenue requirement of one or more Vermont retail electricity providers.

(F) Development of transportation alternatives to vehicles that use gasoline such as electric or natural gas vehicles and supporting infrastructure and the coordination of such development with so-called "smart grid" electric transmission and distribution networks.

(G) Any other uses that support the statutory policy and goals referenced in this subsection (b).

(c) A Vermont retail electricity provider shall notify the board within 30 days of the first receipt of the revenues pursuant to an agreement, contract, memorandum of understanding, or other transaction under which it will receive the revenues. The board will open a proceeding under this section promptly on receipt of such notice and shall issue a final order in the proceeding within 12 months of such receipt.

(d) Any of the revenues that are received prior to completion of the 12-month period described in subdivision (c) of this section shall be credited, for the benefit of ratepayers, against the revenue requirement of the Vermont retail electricity provider that receives the revenues.

Fifth: After Sec. 18, by inserting two new sections to be numbered Secs. 18a and 18b to read as follows:

* * * Natural Gas Vehicles * * *

Sec. 18a. 10 V.S.A. § 6523 is amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources, and emerging energy-efficient technologies, for the long-term benefit of Vermont consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The fund also may be used to support natural gas

vehicles in accordance with subdivision (d)(1)(K) of this section. The general assembly expects and intends that the public service board, public service department, and the state's power and efficiency utilities will actively implement the authority granted in Title 30 to acquire all reasonably available cost-effective energy efficiency resources for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

(1) Projects for funding may include, and in the case of subdivision (1)(E)(ii) of this subsection shall include continuous funding for as long as funds are available, the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) small scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the small-scale renewable energy incentive program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program; and

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow.

* * *

* * * Residential Building Energy Standards * * *

Sec. 18b. 21 V.S.A. § 266 is amended to read:

§ 266. RESIDENTIAL BUILDING ENERGY STANDARDS

(a) Definitions. For purposes of this subchapter, the following definitions apply:

(1) "Builder" means the general contractor or other person in charge of construction, who has the power to direct others with respect to the details to be observed in construction.

(2) "Residential buildings" means one family dwellings, two family dwellings, and multi-family housing three stories or less in height. "Residential buildings" shall not include hunting camps.

(3) "Residential construction" means new construction of residential buildings, and the construction of ~~residential~~ additions ~~that create 500 square feet of new floor space, or more. Before July 1, 1998, this definition shall only apply to residential construction that is subject to the jurisdiction of 10 V.S.A. chapter 151. Effective July 1, 1998, this definition shall apply to residential construction, regardless of whether or not it is subject to the jurisdiction of 10 V.S.A. chapter 151~~, alterations, renovations, or repairs to an existing residential building.

(4) "IECC" means the International Energy Conservation Code of the International Code Council.

(b) Adoption of Residential Building Energy Standards (RBES). Residential construction ~~commencing on or after July 1, 1997~~ shall be in compliance with the standards ~~contained in the 1995 edition of the "Model Energy Code" (MEC) prepared by the Council of American Building Officials, as those standards have been amended by the general assembly in the act that initially adopts the Model Energy Code~~ adopted by the commissioner of public service in accordance with subsection (c) of this section.

(c) Revision and interpretation of energy standards. The commissioner of public service shall amend and update the RBES, by means of administrative rules adopted in accordance with ~~3 V.S.A.~~ chapter 25 of Title 3. No later than January 1, 2011, the commissioner shall complete rulemaking to amend the energy standards to ensure that, to comply with the standards, residential construction must be designed and constructed in a manner that complies with the 2009 edition of the IECC. These amendments shall be effective on final adoption. After January 1, 2011, the commissioner shall ensure that

appropriate revisions are made promptly after the issuance of updated standards for residential construction under the IECC. The department of public service shall provide technical assistance and expert advice to the commissioner in the interpretation of the RBES and in the formulation of specific proposals for amending the RBES. Prior to final adoption of each required revision of the RBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders, builders, building designers, utility representatives, and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner with additional recommendations for revision of the RBES.

* * *

(5) A home energy rating~~, from~~ conducted at the time of construction by a Vermont-accredited home energy rating organization~~, that is determined to indicate energy performance equivalent to the RBES,~~ shall be an acceptable means of demonstrating compliance if the rating indicates energy performance equivalent to the RBES.

* * *

Sec. 18c. FEDERAL RESIDENTIAL RETROFIT ENERGY LEGISLATION; ROLE OF EFFICIENCY UTILITY

The 111th Congress of the United States currently is considering H.R. 5019, the Home Energy Retrofit Act of 2010. With respect to any federal legislation pertaining to residential energy retrofits that is enacted during the 111th Congress, the governor, the public service board, the department of public service, any state agency that is authorized or eligible for authorization by the federal government to receive benefits or funding under such legislation, and any entity that is appointed pursuant to 30 V.S.A. § 209 promptly shall take those actions necessary to obtain the greatest possible benefit for the state from such legislation. To deliver services in the state pursuant to any such legislation, including implementation of quality assurance programs and coordination of financial service delivery, Vermont shall use the entities that are appointed under 30 V.S.A. § 209 and that deliver energy efficiency services to electric, heating, or process-fuel customers, to the extent such use is not prohibited by such federal legislation.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator McCormack, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the

bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By striking out the *second* and *third* proposals of amendment in their entirety and inserting in lieu thereof new *second* and *third* proposals of amendment to read:

Second: By striking out Sec. 11 in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. 32 V.S.A. § 5930z is amended to read:

§ 5930z. ~~PASS-THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS~~ SOLAR ENERGY TAX CREDIT

(a) A taxpayer of this state shall be eligible for ~~a~~ the business solar energy tax credit against the tax imposed under section 5822 or 5832 of this title in an amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided further, that for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.

(b) Any taxpayer who has received a credit under subsection (a) of this section in any prior year shall increase its personal or corporate income tax under this chapter by the amount of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit recapture for the taxable year.

(c) The clean energy development board (the board) established pursuant to 10 V.S.A. § 6523 shall certify to the department no more than $9,400,000.00 of eligible solar energy tax credits. The board shall set aside a portion of this amount for the systems described in subdivision (2) of this subsection. Credits shall be certified only if one of the two following criteria is met:

(1) The investment for which the solar energy tax credit is claimed is made after January 1, 2010, and:

(A) The investment pertains to a solar energy plant that has a plant capacity, as defined in 30 V.S.A. § 8002(13), of 2.2 MW or less;

(B) On or before July 15, 2010, the solar energy plant owner filed a complete petition with the public service board for a certificate of public good under 30 V.S.A. § 248;

(C) On or before September 1, 2011, construction on the solar energy plant is complete and the plant is commissioned or is ready to be commissioned within the meaning of 30 V.S.A. § 8002(11); and

(D) By July 15, 2010, the taxpayer has provided to the clean energy development board on a form prescribed by the board information necessary for the fund to determine the taxpayer's eligibility for the credit; or

(2)(A) The investment is made after January 1, 2010, and before December 31, 2010, and pertains to a system that constitutes energy property as defined in 26 U.S.C. § 48(a)(3)(A)(i) and that does not require a certificate of public good under 30 V.S.A. § 248, or pertains to a net metering system as defined in 30 V.S.A. § 219a(a)(3), provided that the system is of no more than 150 kilowatts (AC) capacity; and

(B) By December 15, 2010, the taxpayer has provided to the clean energy development board on a form prescribed by the board information necessary for the fund to determine the taxpayer's eligibility for the credit.

(d) The final amount of any solar energy tax credit certified under this section shall not exceed the amount awarded to the taxpayer under 26 U.S.C. § 48.

(e) Any unused solar energy tax credit may be carried forward for no more than five succeeding tax years following the first year in which the solar energy tax credit is claimed.

(f) On a regular basis, the department shall notify the treasurer and the clean energy development board of solar energy tax credits claimed pursuant to this section, and the board shall cause to be transferred from the clean energy development fund to the general fund an amount equal to the amount of solar energy tax credits as and when the credits are claimed.

(g) The clean energy development board and the department shall collaborate in implementing the certification of credits under this section.

Third: By striking out Sec. 12 (renewable energy property tax study committee) in its entirety and inserting in lieu thereof "Sec. 12. [Deleted]"

Second: In the *fourth* proposal of amendment, Sec. 13a, in subsection (b), by striking out the following: "February 1, 2011" and inserting in lieu thereof the following: October 1, 2011 and in subsection (b)(2)(F), by striking out the word "potential"

Third: By proposing to amend the bill in Sec. 7, subsection (a), by striking out the following: "December 31, 2010" and inserting in lieu thereof the following: February 15, 2011

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Natural Resources and Energy was agreed to.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as recommended by the Committee on Finance, was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Flory and McCormack, moved to amend the Senate proposal of amendment as follows:

First: By adding three new sections to be numbered Secs. 18d, 18e, and 18f to read as follows:

Sec. 18d. 26 V.S.A. § 894 is amended to read:

§ 894. ENERGIZING INSTALLATIONS; REENERGIZING AFTER EMERGENCY DISCONNECTION

(a) A new electrical installation in or on a complex structure; or an electrical installation used for the testing or construction of a complex structure shall not be connected or caused to be connected, to a source of electrical energy unless prior to ~~such~~ connection, either a temporary or a permanent energizing permit is issued for that installation by the commissioner or an electrical inspector.

(b) An existing electrical installation in any structure, including a single-family owner-occupied freestanding residence, that was disconnected as the result of an emergency that affects the internal electrical circuits, shall not be reconnected to a source of electrical energy until the electrical installation has been inspected and determined to be safe by a licensed journeyman or licensed master electrician.

(c) This section shall not be construed to limit or interfere with a contractor's right to receive payment for electrical work for which a certificate of completion has been granted.

Sec. 18e. 26 V.S.A. § 904(a) is amended to read:

(a) To be eligible for licensure as a type-S journeyman an applicant shall:

(1) complete an accredited training and experience program recognized by the board; or

(2) have had training and experience, within or without this state, acceptable to the board; and

(3) pass an examination to the satisfaction of the board in one or more of the following fields:

(A) Automatic gas or oil heating;

(B) Outdoor advertising;

(C) Refrigeration or air conditioning;

(D) Appliance and motor repairs;

(E) Well pumps;

(F) Farm equipment;

(G) Renewable energy systems for one- and two-family dwellings;

(H) Any miscellaneous specified area of specialized competence.

Sec. 18f. 26 V.S.A. § 910 is amended to read:

§ 910. LICENSE NOT REQUIRED

A license shall not be required for the following types of work:

(1) Any electrical work, including construction, installation, operation, maintenance, and repair of electrical installations in, on or about equipment or premises, which are owned or leased by the operator of any industrial or manufacturing plant, if the work is done under the supervision of an electrical engineer or master electrician in the employ of the operator;

(2) Installation in laboratories of exposed electrical wiring for experimental purposes only;

(3) Any electrical work by ~~an~~ the owner ~~or his or her regular employees~~ in the ~~owner's~~ owner-occupied freestanding single unit residence~~, in~~ and outbuildings accessory to ~~such~~ the freestanding single unit residence or any structure on owner-occupied farms;

(4) Electrical installations performed as a part of a training project of a vocational school or other educational institution. However, the installation

shall be inspected if the building in which the installation is made, is to be used as a "complex structure";

(5) Electrical work performed by an electrician's helper under the direct supervision of a person who holds an appropriate license issued under this chapter;

(6) ~~Any electrical work in a building used for dwelling or residential purposes which contains no more than two dwelling units~~ Installation of solar electric modules and racking and erection of residential wind turbines and towers to the point of connection to field-fabricated wiring.

Second: In Sec. 19 (effective date), after the first sentence, by adding the following:

In order to provide time for the electrical licensing board to develop and conduct a test for a type-S journeyman's license for renewable energy installation and for renewable energy installers to complete the licensing requirements, a license under 26 V.S.A. § 904 shall not be required for renewable energy installations until 12 months after the electrical licensing board adopts this test and licensing procedure.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators Flory and McCormack?, Senator Flory requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Hartwell and Sears, moved to amend the Senate proposal of amendment as follows:

By striking out Secs. 16 through 18 (consolidation of environmental appeals for renewable energy plants with public service board review) in their entirety and inserting in lieu thereof the following: Secs. 16 – 18. [Deleted]

Senator Shumlin Assumes the Chair

Which was disagreed to on a roll call, Yeas 5, Nays 23.

Senator Nitka having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Hartwell, Kittell, Nitka, Sears, Starr.

Those Senators who voted in the negative were: Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Flory, Giard,

Illuzzi, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Racine, Scott, Snelling, White.

Those Senators absent or not voting were: Kitchel, Shumlin (presiding).

Thereupon, pending the question, Shall the bill be read a third time?, Senator Illuzzi, moved to amend the Senate proposal of amendment as follows:

By adding a new section to be numbered Sec. 18g to read as follows:

Sec. 18g. 26 V.S.A. § 910(7) is added to read:

(7) Installation of solar electric modules and racking on complex structures to the point of connection to field-fabricated wiring and erection of net metered wind turbines.

Which was agreed to on a roll call, Yeas 28, Nays 1.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Snelling, Starr, White.

The Senator who voted in the negative was: Sears.

The Senator absent or not voting was: Shumlin (presiding).

President Assumes the Chair

Thereupon, the pending question, Shall the bill be read the third time?, was decided in the affirmative on a roll call, Yeas 30, Nays 0.

Senator Lyons having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

Rules Suspended; Bill Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

H. 488.

Rules Suspended; Bills Delivered

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 64, S. 218, S. 282.

Rules Suspended; Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged

H. 779.

Pending entry on the Calendar for action tomorrow, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to potable water supply and wastewater system permits.

Was taken up for immediate consideration.

Thereupon, pending third reading of the bill, Senators Mullin, Carris and Flory moved to amend the Senate proposal of amendment as follows:

By striking out Sec. 1a in its entirety and inserting in lieu thereof the a new Sec. 1a to read as follows:

Sec. 1a. 18 V.S.A. chapter 85, subchapter 6 is added to read:

Subchapter 6. Temporary Outdoor Seating

§ 4465. LIMITED FOOD ESTABLISHMENTS; TEMPORARY OUTDOOR SEATING

A food establishment that prepares and serves food for off premises uses may provide temporary outdoor seating for up to 16 persons from May 1 to October 31 without providing patron toilet or handwashing facilities.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as moved by Senators Mullin, Carris and Flory?, Senator McCormack raised a point of order that the proposal of amendment was not germane. The President *overruled* the point of order, noting that both the amendment as moved by Senators Mullin, Carris and Flory and Sec 1a of the bill as passed by the House dealt with outdoor seating for customers of retail businesses. Therefore, the proposed amendment was germane.

Thereupon, the recurring question, Shall the Senate proposal of amendment be amended as moved by Senators Mullin, Carris and Flory?, was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered messaged to the House forthwith.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until ten o'clock in the morning.