House Calendar

Tuesday, March 15, 2011

70th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 428

An act relating to requiring supervisory unions to perform common duties

Committee Bill for Second Reading

H. 430

An act relating to providing mentoring support for new principals and technical center directors.

(Rep. Campion of Bennington will speak for the Committee on **Education.)**

Favorable with amendment

H. 101

An act relating to voting requirements in common ownership communities

Rep. Bouchard of Colchester, for the Committee on **General, Housing and Military Affairs,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Sec. 20 of No. 155 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 20. 27A V.S.A. § 2-117 is amended to read:

§ 2-117. AMENDMENT OF DECLARATION

* * *

(d) Except to the extent expressly permitted or required by other provisions of this title, no amendment may create or increase special declarant rights, increase the number of units, change the boundaries of any unit, or change the allocated interests of a unit~~, or the uses to which any unit is restricted, in the absence of~~ without unanimous consent of the unit owners. If an amendment to the declaration limits the right to rent or lease a unit, the amendment shall provide a reasonable period of time before the limitation shall apply.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee Vote: 8-0-0)

Favorable

H. 172

An act relating to repealing the sale or lease of the John F. Boylan airport

Rep. Shaw of Pittsford, for the Committee on **Corrections and Institutions,** recommends the bill ought to pass.

(Committee Vote: 11-0-0)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 431

An act relating to extending the implementation date of certain employment-related disclosure requirements.

(Rep. Grad of Moretown will speak for the Committee on **Judiciary.)**

Favorable with Amendment

H. 11

An act relating to the discharge of pharmaceutical waste to state waters

Rep. Degree of St. Albans City, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

* * *

(41) "Prescription drug" means any human drug required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to Section 503(b) of the federal Food, Drug and Cosmetic Act.

(42) "Ultimate user" means a patient who uses a prescription drug.

Sec. 2. 18 V.S.A. § 4206 is amended to read:

§ 4206. LICENSES

* * *

(c) The ultimate user of a prescription drug who has lawfully obtained such prescription drug or other persons authorized by federal law may deliver,

without being registered pursuant to 26 V.S.A. § 2061, the prescription drug to another person for the purpose of disposal of the prescription drug if the person receiving the prescription drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

(Committee Vote: 9-0-0)

H. 41

An act relating to requiring employment breaks

Rep. Moran of Wardsboro, for the Committee on **General, Housing and Military Affairs,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 304 is amended to read:

§ 304. EMPLOYMENT CONDITIONS; EMPLOYMENT BREAKS

(a) An employer shall ~~provide an~~ offer each employee ~~with~~ paid or unpaid breaks from work totaling at least 30 minutes during each six hours of work to assure that employees have reasonable opportunities ~~during work periods to eat and to use toilet facilities in order to protect the health and hygiene of the employee~~ to eat, rest, and use toilet facilities. If the break from work would pose a threat to property, life, public safety, or public health, the employer may offer a shorter break or reschedule the time that the break may be taken.

(b) An employer may adopt an employment break policy more generous than that provided by this section.

(c) Nothing in this section shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater break rights than the rights provided by this section. A collective bargaining agreement or employment benefit program or plan may not diminish the rights provided by this section.

(d) An employer shall not retaliate or discriminate against an employee for asserting the employee's rights provided by this section.

(e) An employee who is aggrieved by a violation of this section may bring a civil action for equitable and other appropriate relief, including reinstatement, civil damages in the amount of three times the employee's hourly wage multiplied by the number of hours of break time that the employee was denied, costs, and reasonable attorney's fees. No action may be

brought pursuant to this subsection unless the employee has affirmatively requested, and been denied, the work break period allowed by this section.

(f) An employer who violates this section may be assessed an administrative penalty of up to $100.00 for each violation not to exceed $1,000.00 in any 30-day period. A complaint shall be brought to the department within 60 days of an alleged violation.

Sec. 2. 21 V.S.A. § 303 is amended to read:

§ 303. PENALTY; JUDICIAL BUREAU

Any employer who violates the provisions of ~~this subchapter~~ section 305 of this title shall be assessed a civil penalty of not more than $100.00 for each and every violation.

(Committee Vote: 5-3-0)

H. 56

An act relating to the Vermont Energy Act of 2011

Rep. Cheney of Norwich, for the Committee on **Natural Resources and Energy,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

TO THE HOUSE OF REPRESENTATIVES:

The Committee on Natural Resources and Energy to which was referred House Bill No. 56 entitled "An act relating to the Vermont Energy Act of 2011" respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Net Metering * * *

Sec. 1. 30 V.S.A. § 219a is amended to read:

§ 219a. SELF-GENERATION AND NET METERING

(a) As used in this section:

* * *

(3) "Net metering system" means a facility for generation of electricity that:

(A) is of no more than ~~250 kilowatts (AC)~~ 500 kW capacity;

(B) operates in parallel with facilities of the electric distribution system;

(C) is intended primarily to offset ~~part or all of~~ the customer's own electricity requirements;

(D) is located on the customer's premises or, in the case of a group net metering system, on the premises of a customer who is a member of the group; and

(E)(i) employs a renewable energy source as defined in subdivision 8002(2) of this title; or

(ii) is a qualified micro-combined heat and power system of 20 ~~kilowatts~~ kW or fewer that meets the definition of combined heat and power in 10 V.S.A. § 6523(b) and may use any fuel source that meets air quality standards.

(4) ~~"Farm system" means a facility of no more than 250 kilowatts (AC) output capacity, except as provided in subdivision (k)(5) of this section, that generates electric energy on a farm operated by a person principally engaged in the business of farming, as that term is defined in Regulation 1.175-3 of the Internal Revenue Code of 1986, from the anaerobic digestion of agricultural products, byproducts, or wastes, or other renewable sources as defined in subdivision (3)(E) of this subsection, intended to offset the meters designated under subdivision (g)(1)(A) of this section on the farm or has entered into a contract as specified in subsection (k) of this section.~~ "Facility" means a structure or piece of equipment and associated machinery and fixtures that generates electricity. A group of structures or pieces of equipment shall be considered one facility if it uses the same fuel source and infrastructure and is located in close proximity. Common ownership shall be relevant but not sufficient to determine that such a group constitutes a facility.

(5) "kW" means kilowatt or kilowatts (AC).

(6) "kWh" means kW hour or hours.

(7) "MW" means megawatt or megawatts (AC).

(b) A customer shall pay the same rates, fees, or other payments and be subject to the same conditions and requirements as all other purchasers from the electric company in the same rate-class, except as provided for in this section, and except for appropriate and necessary conditions approved by the board for the safety and reliability of the electric distribution system.

(c) The board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. A net metering system shall be deemed to promote the public good of the state

if it is in compliance with the criteria of this section, and board rules or orders. In developing such rules or orders, the board:

(1) With respect to a solar net metering system of 5 kW or less, shall provide that the system may be installed ten days after the customer's submission to the board and the interconnecting electric company of a completed registration form and certification of compliance with the applicable interconnection requirements. Within that ten-day period, the interconnecting electric company may deliver to the customer and the board a letter detailing any issues concerning the interconnection of the system. The customer shall not commence construction of the system prior to the passage of this ten-day period and, if applicable, resolution by the board of any interconnection issues raised by the electric company in accordance with this subsection. If the ten-day period passes without delivery by the electric company of a letter that raises interconnection issues in accordance with this subsection, a certificate of public good shall be deemed issued on the 11th day without further proceedings, findings of fact, or conclusions of law, and the customer may commence construction of the system. On request, the clerk of the board promptly shall provide the customer with written evidence of the system's approval. For the purpose of this subdivision, the following shall not be included in the computation of time: Saturdays, Sundays, state legal holidays under 1 V.S.A. § 371(a), and federal legal holidays under 5 U.S.C. § 6103(a).

(2) With respect to a net metering system for which a certificate of public good is not deemed issued under subdivision (1) of this subsection:

(A) may waive the requirements of section 248 of this title that are not applicable to net metering systems, including, but not limited to, criteria that are generally applicable to public service companies as defined in this title;

~~(2)~~(B) may modify notice and hearing requirements of this title as it deems appropriate;

~~(3)~~(C) shall seek to simplify the application and review process as appropriate; and

~~(4)~~(D) shall find that such rules are consistent with state power plans.

(d)(1) An applicant for a certificate of public good for a net metering system shall be exempt from the requirements of subsection 202(f) of this title.

(2) Any certificate issued under this section shall be automatically transferred to any subsequent owner of the property served by the net metering system, provided, in accordance with rules adopted by the board, the board and

the electric company are notified of the transfer, and the subsequent owner agrees to comply with the terms and conditions of the certificate.

(3) Nonuse of a certificate of public good for a period of one year following the date on which the certificate is issued or, under subdivision (1) of this subsection, deemed issued shall constitute an abandonment of the net metering system and the certificate shall be considered expired. For the purpose of this section, for a certificate to be considered "used," installation of the net metering system must be completed within the one-year period, unless installation is delayed by litigation or unless, at the time the certificate is issued or in a subsequent proceeding, the board provides that installation may be completed more than one year from the date the certificate is issued.

(e) Consistent with the other provisions of this title, electric energy measurement for net metering systems using a single nondemand meter that are not ~~farm~~ group systems shall be calculated in the following manner:

* * *

(3) If electricity generated by the customer exceeds the electricity supplied by the electric company:

(A) ~~The customer shall be billed for the appropriate charges for that month, in accordance with subsection (b) of this section~~ The electric company shall calculate a monetary credit to the customer by multiplying the excess kWh generated during the billing period by the kWh rate paid by the customer for electricity supplied by the company and shall apply the credit to any remaining charges on the customer's bill for that period;

(B) ~~The customer shall be credited for the excess kilowatt hours generated during the billing period, with this kilowatt hour credit appearing on the bill for the following billing period~~ If application to such charges does not use the entire balance of the credit, the remaining balance of the credit shall appear on the customer's bill for the following billing period; and

(C) Any accumulated ~~kilowatt hour~~ credits shall be used within 12 months, or shall revert to the electric company, without any compensation to the customer. Power reverting to the electric company under this subdivision (3) shall be considered SPEED resources under section 8005 of this title.

* * *

(f) Consistent with the other provisions of this title, electric energy measurement for ~~net metering farm or~~ group net metering systems shall be calculated in the following manner:

(1) Net metering customers that are ~~farm or~~ group net metering systems may credit on-site generation against all meters designated to the ~~farm system or~~ group net metering system under subdivision (g)(1)(A) of this section.

(2) Electric energy measurement for ~~farm or~~ group net metering systems shall be calculated by subtracting total usage of all meters included in the ~~farm or~~ group net metering system from total generation by the ~~farm or~~ group net metering system. If the electricity generated by the ~~farm or~~ group net metering system is less than the total usage of all meters included in the ~~farm or~~ group net metering system during the billing period, the ~~farm or~~ group net metering system shall be credited for any accumulated kilowatt-hour credit and then billed for the net electricity supplied by the electric company, in accordance with the procedures in subsection (g) (group net metering) of this section.

(3) If electricity generated by the ~~farm or~~ group net metering system exceeds the electricity supplied by the electric company~~:~~ .

~~(A) The farm or group net metering system shall be billed for the appropriate charges for each meter for that month, in accordance with subsection (b) of this section.~~

~~(B) Excess kilowatt-hours generated during the billing period shall be added to the accumulated balance with this kilowatt-hour credit appearing on the bill for the following billing period.~~

~~(C) Any accumulated kilowatt-hour credits shall be used within 12 months or shall revert to the electric company without any compensation to the farm or group net metering system. Power reverting to the electric company under this subdivision (3) shall be considered SPEED resources under section 8005 of this title~~ the provisions of subdivision (e)(3) (credit for excess generation) of this section shall apply, with credits allocated to and appearing on the bill of each member of the group net metering system in accordance with subsection (g) (group net metering) of this section.

(g)(1) In addition to any other requirements of section 248 of this title and this section and board rules thereunder, before a ~~farm or~~ group net metering system including more than one meter may be formed and served by an electric company, the proposed ~~farm or~~ group net metering system shall file with the board, with copies to the department and the serving electric company, the following information:

(A) the meters to be included in the ~~farm or~~ group net metering system, which shall be associated with the buildings and residences owned or occupied by the person operating the ~~farm or~~ group net metering system, or the person's family or employees, or other members of the group, identified by account number and location;

(B) a procedure for adding and removing meters included in the ~~farm or~~ group net metering system, and direction as to the manner in which the electric company shall allocate any accrued credits among the meters included in the system, which allocation subsequently may be changed only on written notice to the electric company in accordance with subdivision (4) of this subsection;

(C) a designated person responsible for all communications from the ~~farm or~~ group net metering system to the serving electric company~~, for receiving and paying bills for any service provided by the serving electric company for the farm or group net metering system, and for receiving any other communications regarding the farm or group net metering system~~ except for communications related to billing, payment, and disconnection; and

(D) a binding process for the resolution of any disputes within the ~~farm or~~ group net metering system relating to net metering that does not rely on the serving electric company, the board, or the department. However, this subdivision (D) shall not apply to disputes between the serving electric company and individual members of a group net metering system regarding billing, payment, or disconnection.

(2) The ~~farm or~~ group net metering system shall, at all times, maintain a written designation to the serving electric company of a person ~~who shall be the sole person authorized to receive and pay bills for any service provided by the serving electric company, and~~ to receive any ~~other~~ communications regarding ~~the farm system,~~ the group net metering system~~,~~ or net metering that do not relate to billing, payment, or disconnection.

(3) The serving electric company shall bill directly and send all communications regarding billing, payment, and disconnection directly to the customer name and address listed for the account of each individual meter designated under subdivision (1)(A) of this subsection as being part of a group net metering system. The usage charges for any account so billed shall be based on the individual meter for the account. The credit applied on that bill for electricity generated by the group net metering system shall be calculated in the manner directed by the system under subdivision (1)(B) of this subsection.

(4) The serving ~~utility~~ electric company shall implement appropriate changes to the ~~farm or~~ group net metering system within 30 days after receiving written notification from the designated person. However, written notification of a change in the person designated under subdivision (2) of this subsection shall be effective upon receipt by the serving ~~utility~~ electric company. The serving ~~utility~~ electric company shall not be liable for action

based on such notification, but shall make any necessary corrections and bill adjustments to implement revised notifications.

~~(4)~~(5) Pursuant to subsection 231(a) of this title, after such notice and opportunity for hearing as the board may require, the board may revoke a certificate of public good issued to a ~~farm or~~ group net metering system.

~~(5)~~(6) A group net metering system may consist only of customers that are located within the service area of the same electric company. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net metering system. A union or district school facility shall be considered in the same group net metering system with buildings of its member municipalities that are located within the service area of the same electric company that serves the facility. If it determines that it would promote the general good, the board shall permit a noncontiguous group of net metering customers to comprise a group net metering system.

(h)(1) An electric company:

(A) Shall make net metering available to any customer using a net metering system~~,~~ or group net metering system~~, or farm system~~ on a first-come, first-served basis until the cumulative output capacity of net metering systems equals ~~2.0~~ 4.0 percent of the distribution company's peak demand during 1996; or the peak demand during the most recent full calendar year, whichever is greater. The board may raise the ~~2.0~~ 4.0 percent cap. In determining whether to raise the cap, the board shall consider the following:

(i) the costs and benefits of net metering systems already connected to the system; and

(ii) the potential costs and benefits of exceeding the cap, including potential short and long-term impacts on rates, distribution system costs and benefits, reliability and diversification costs and benefits;

* * *

(E) May require a customer to comply with generation interconnection, safety, and reliability requirements, as determined by the public service board by rule or order, and may charge reasonable fees for interconnection, establishment, special metering, meter reading, accounting, account correcting, and account maintenance of net metering arrangements of greater than 15 ~~kilowatt (AC)~~ kW capacity;

* * *

(J) May in its rate schedules offer credits or other incentives that may include monetary payments to net metering customers. These credits or

incentives shall not displace the benefits provided to such customers under subsections (e) and (f) of this section.

(K) Except as provided in subdivision (1)(K)(v) of this subsection, shall in its rate schedules offer a credit to each net metering customer using solar energy that shall apply to each kWh generated by the customer's solar net metering system and that shall not displace the benefits provided to such customers under subsections (e) and (f) of this section.

(i) The credit required by this subdivision (K) shall be $0.20 minus the highest residential rate per kWh paid by the company as of the date it files with the board a proposed modification to its rate schedules to effect this subdivision (K) or to revise a credit previously instituted under this subdivision (K). Notwithstanding the basis for this credit calculation, the amount of the credit shall not fluctuate with changes in the underlying residential rate used to calculate the amount.

(ii) The electric company shall apply the credit calculated in accordance with subdivision (1)(K)(i) of this subsection to generation from each net metering system using solar energy regardless of the customer's rate class. A credit under this subdivision (K) shall be applied to all charges on the customer's bill from the electric company and shall be subject to the provisions of subdivisions (e)(3)(B) (credit for unused balance) and (C) (12-month reversion) and (f)(3) (credit for excess generation; group net metering) of this section.

(iii) An electric company's proposed modification to a rate schedule to offer a credit under this subdivision (K) and any investigation initiated by the board or party other than the company of an existing credit contained in such a rate schedule shall be reviewed in accordance with the procedures set forth in section 225 of this title, except that:

(I) A company's proposed modification shall take effect on filing with the board and shall not be subject to suspension under section 226 of this title;

(II) Such a modification or investigation into an existing credit shall not require review of the company's entire cost of service; and

(III) Such a modification or existing credit may be altered by the board for prospective effect only commencing with the date of the board's decision.

(iv) Within 30 days of this subdivision's effective date, each electric company shall file a proposed modification to its rate schedule that complies with this subdivision (K). Such proposed modification, as it may be

revised by the board, shall not be changed for two years starting with the date of the board's decision on the modification. After the passage of that two-year period, further modifications to the amount of a credit under this subdivision may be made in accordance with subdivisions (1)(K)(i)-(iii) of this subsection.

(v) An electric company shall not be required to offer a credit under this subdivision (K) if, as of the effective date of this subdivision, the result of the calculation described in subdivision (1)(K)(i) of this subsection is zero or less.

(vi) A solar net metering system shall receive the amount of the credit under this subdivision (K) that is in effect for the service territory in which the system is installed as of the date of the system's installation and shall continue to receive that amount for not less than 10 years after that date regardless of any subsequent modification to the credit as contained in the electric company's rate schedules.

(2) All such requirements or credits or other incentives shall be pursuant to and governed by a tariff approved by the board and any applicable board rule, which tariffs and rules shall be designed in a manner reasonably likely to facilitate net metering. With respect to a credit or incentive under subdivision (1)(J) (optional credit or incentive) or (K) (solar credit) of this subsection that is provided to a net metering system that constitutes new renewable energy under subdivision 8002(4) of this title:

(A) If the credit or incentive applies to each kWh generated by the system, then the system's energy production shall count toward the goals and requirements of subsection 8005(d) of this title.

(B) If the credit or incentive applies only to the system's net energy production supplied to the company, then the increment of net energy production supplied by the customer to the company through a net metering system that is supported by such additional credit or incentive shall count toward the goals and requirements of subsection 8005(d) of this title.

* * *

(k) Notwithstanding the provisions of subsections (f) and (g) of this section, an electric company may contract to purchase all or a portion of the output products from a ~~farm or~~ group net metering system, provided:

(1) the ~~farm or~~ group net metering system obtains a certificate of public good under the terms of subsections (c) and (d) of this section;

(2) any contracted power shall be subject to the limitations set forth in subdivision (h)(1) of this section;

(3) any contract shall be subject to interconnection and metering requirements in subdivisions (h)(1)(C)~~,~~ and (i)(2) and (3) of this section;

(4) any contract may permit all or a portion of the tradeable renewable energy credits for which the ~~farm~~ system is eligible to be transferred to the electric company;

(5) the output capacity of a system may exceed ~~250 kilowatts~~ 500 kW, provided:

(A) the contract assigns the amount of power to be net metered; and

(B) the net metered amount does not exceed ~~250 kilowatts~~ 500 kW; and

(C) only the amount assigned to net metering is assessed to the cap provided in subdivision (h)(1)(A) of this section.

* * *

(m) A facility for the generation of electricity to be consumed primarily by the military department established under 3 V.S.A. § 212 and 20 V.S.A. § 361(a) or the National Guard as defined in 32 U.S.C. § 101(3), and installed on property of the military department or National Guard located in Vermont, shall be considered a net metering system for purposes of this section if it has a capacity of 2.2 MW ~~(AC)~~ or less and meets the provisions of subdivisions (a)(3)(B) through (E) of this section. Such a facility shall not be subject to and shall not count toward the capacity limits of subdivisions (a)(3)(A) (no more than ~~250~~ 500 kW) and (h)(1)(A) (~~two~~ four percent of peak demand) of this section.

Sec. 2. IMPLEMENTATION; RETROACTIVE APPLICATION

(a) In Sec. 1 of this act, 30 V.S.A. § 219a(h)(1)(J) (optional credits or incentives) and (K) (required credit; solar systems) shall apply to petitions pertaining to net metering systems filed by an electric company with the public service board on and after May 1, 2010. Notwithstanding 30 V.S.A. § 225(a), an electric company may amend the proof in support of such a petition that is pending as of the effective date of this section if the amendment is to effect compliance with Sec. 1, 30 V.S.A. § 219a(h)(1)(K).

(b) With respect to farm net metering systems under 30 V.S.A. § 219a as it existed prior to the effective date of this section, each such system for which a certificate of public good was issued prior to or for which an application for a certificate of public good is pending as of that date shall be deemed to be a group net metering system under Sec. 1 of this act.

(c) With respect to group net metering systems under Sec. 1 of this act in existence as of the effective date of this section:

(1) Within 30 days of that date, each electric distribution company subject to jurisdiction under 30 V.S.A. § 203 shall provide notice to each such system that it serves, in a form acceptable to the commissioner of public service, of the provisions respecting such systems contained in Sec. 1 of this act and this section, and shall request the system's allocation of credits pursuant to Sec. 1, 30 V.S.A. § 219a(g)(1)(B).

(2) Within 60 days of that date, each such system shall provide direction to the serving electric company of the allocation of credits pursuant to Sec. 1, 30 V.S.A. § 219a(g)(1)(B).

(d) Within 60 days of the effective date of this section, each electric distribution company subject to jurisdiction under 30 V.S.A. § 203 shall take all actions necessary to implement Sec. 1 of this act, 30 V.S.A. § 219a(e)(3) (credit for excess generation), (f)(3) (credit for excess generation), and (g) (group net metering; allocation of credits; direct billing of group members).

(e) No later than 180 days after the effective date of this section, the public service board shall revise its rules and take all actions necessary to implement the amendments to 30 V.S.A. § 219a(c)(1) (systems of 5 kW or less) contained in Sec. 1 of this act. For the purpose of this subsection, the board is authorized to and shall use the procedures for emergency rules pursuant to 3 V.S.A. § 844, except that the board need not determine that there exists an imminent peril to public health, safety, or welfare, and the provisions of 3 V.S.A. § 844(b) (expiration of emergency rules) shall not apply. Prior to adopting the rule revisions, the board shall issue a draft of the revisions and provide notice of and opportunity to comment on the draft revisions in a manner that is consistent with the time frame for adoption required by this subsection.

* * * Self-Managed Energy Efficiency Programs * * *

Sec. 3. 30 V.S.A. § 209(h) is amended to read:

(h)(1) ~~No later than September 1, 2009, the department shall recommend to the board a three-year pilot project for~~ There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The board ~~will review the department's recommendation and~~, by order, shall enact ~~a~~ this class of ~~self-managed energy efficiency~~ programs ~~by December 31, 2009, to take effect for a three-year period beginning January 1, 2010~~.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section that support energy efficiency programs performed by or on behalf of Vermont electric utilities.

(4) All of the following shall apply to a class of programs under this subsection:

* * *

(D) An applicant shall commit to ~~a three-year minimum energy efficiency investment of~~ an annual average energy efficiency investment during each three-year period that the applicant participates in the program of no less than $1 million.

* * *

(H) Upon approval of an application by the board, the applicant shall be able to participate in the class of self-managed energy efficiency programs ~~for a three-year period~~.

* * *

(N) If, at the end of ~~the~~ every third year after an applicant's approval to participate in the self-managed efficiency program (the three-year period), the applicant has not met the commitment required by subdivision (4)(D) of this subsection, the applicant shall pay to the electric efficiency fund described in subdivision (d)(3) of this section the difference between the investment the applicant made while in the self-managed energy efficiency program and the charges the applicant would have incurred under subdivision (d)(3) of this section during the three-year period had the applicant not been a participant in the program. This payment shall be made no later than 90 days after the end of the three-year period.

Sec. 4. RETROACTIVE APPLICATION

(a) Sec. 3 of this act shall apply to the public service board's order on the self-managed energy efficiency program entered December 28, 2009 and its clarifying order on the same program entered April 7, 2010, including the approval in those orders of an entity's participation in the program. Such approval shall be ongoing under the terms and conditions of 30 V.S.A. § 209(h) as amended by Sec. 3 of this act and shall not be limited to the three years commencing January 1, 2010.

(b) Within 60 days of this section's effective date, the board shall take all appropriate steps to implement Sec. 3 of this act.

* * * Section 248 Certificates; Long-term Electricity Purchases, Out-of-State Resources * * *

Sec. 5. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

(A) in any way purchase electric capacity or energy from outside the state:

(i) for a period exceeding five years, that represents more than ~~one~~ three percent of its historic peak demand, unless the purchase is from a plant as defined in subdivision 8002(12) of this title that produces electricity from renewable energy as defined under subdivision 8002(2); or

(ii) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant as defined in subdivision 8002(12) of this title that produces electricity from renewable energy as defined under subdivision 8002(2); or

(B) invest in an electric generation or transmission facility located outside this state unless the public service board first finds that the same will promote the general good of the state and issues a certificate to that effect.

* * *

* * * Revisions to SPEED Program and Standard Offer * * *

Sec. 6. 30 V.S.A. § 8001 is amended to read:

§ 8001. RENEWABLE ENERGY GOALS

(a) The general assembly finds it in the interest of the people of the state to promote the state energy policy established in section 202a of this title by:

(1) Balancing the benefits, lifetime costs, and rates of the state's overall energy portfolio to ensure that to the greatest extent possible the economic benefits of renewable energy in the state flow to the Vermont economy in general, and to the rate paying citizens of the state in particular.

(2) Supporting development of renewable energy and related planned energy industries in Vermont, ~~in particular~~ and the jobs and economic benefits associated with such development, while retaining and supporting existing renewable energy infrastructure.

(3) Providing an incentive for the state's retail electricity providers to enter into affordable, long-term, stably priced renewable energy contracts that mitigate market price fluctuation for Vermonters.

(4) Developing viable markets for renewable energy and energy efficiency projects.

(5) Protecting and promoting air and water quality by means of renewable energy programs.

(6) Contributing to reductions in global climate change and anticipating the impacts on the state's economy that might be caused by federal regulation designed to attain those reductions.

(7) Supporting and providing incentives for small, distributed renewable energy generation, including incentives that support locating such generation in areas that will provide benefit to the operation and management of the state's electric grid.

* * *

Sec. 7. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

* * *

(4) "New renewable energy" means renewable energy produced by a generating resource coming into service after December 31, 2004. ~~This~~ With respect to a system of generating resources that includes renewable energy, the percentage of the system that constitutes new renewable energy shall be determined through dividing the plant capacity of the system's generating resources coming into service after December 31, 2004 that produce renewable energy by the total plant capacity of the system. "New renewable energy" also may include the additional energy from an existing renewable facility retrofitted with advanced technologies or otherwise operated, modified, or expanded to increase the kwh output of the facility in excess of an historical baseline established by calculating the average output of that facility for the 10-year period that ended December 31, 2004. If the production of new renewable energy through changes in operations, modification, or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions. For the purposes of this chapter, renewable energy refers to either "existing renewable energy" or "new renewable energy."

* * *

(10) "Board" means the public service board under section 3 of this title, except when used as part of the phrase "clean energy development board" or when the context clearly refers to the latter board.

* * *

(16) "Department" means the department of public service under section 1 of this title, unless the context clearly indicates otherwise.

(17) "kW" means kilowatt or kilowatts (AC).

(18) "kWh" means kW hour or hours.

(19) "MW" means megawatt or megawatts (AC).

(20) "MWH" means MW hour or hours.

Sec. 8. 30 V.S.A. § 8005 is amended to read:

§ 8005. SUSTAINABLY PRICED ENERGY ENTERPRISE DEVELOPMENT (SPEED) PROGRAM

* * *

(b) The SPEED program shall be established, by rule, order, or contract, by the public service board ~~by January 1, 2007~~. As part of the SPEED program, the public service board may, and in the case of subdivisions (1), (2), and (5) of this subsection shall:

* * *

(2) ~~No later than September 30, 2009, put into effect, on behalf of all Vermont retail electricity providers,~~ Issue standard offers for qualifying SPEED resources with a plant capacity of 2.2 MW or less. These standard offers shall be available until the cumulative plant capacity of all such resources commissioned in the state that have accepted a standard offer under this subdivision (2) equals or exceeds 50 MW; provided, however, that a plant owned and operated by a Vermont retail electricity provider shall count toward this 50-MW ceiling if the plant has a plant capacity of 2.2 MW or less and is commissioned on or after September 30, 2009. The term of a standard offer required by this subdivision (2) shall be 10 to 20 years, except that the term of a standard offer for a plant using solar power shall be 10 to 25 years. The price paid to a plant owner under a standard offer required by this subdivision shall include an amount for each kilowatt-hour (kWh) generated that shall be set as follows:

* * *

(G) Notwithstanding the requirement of this subsection (b) that a standard offer be available for qualifying SPEED resources, the board shall

make a standard offer available under this subdivision (2) to an existing hydroelectric plant that does not exceed the 2.2 MW plant capacity limit of this subsection. To such plants, the board shall not allocate more of the cumulative 50-MW plant capacity under this subdivision (2) than exceeds the amount of such capacity that is unsubscribed as of January 1, 2012. Before making this standard offer available, the board shall notify potentially eligible plants known to it and shall publish broad public notice of the future availability of the standard offer. The notice shall direct that all potentially eligible plants shall file with the board a statement of interest in the standard offer by a date to be no less than 30 days from the date of the notice. No plant may participate in this standard offer unless it timely files such a statement. The filing of such a statement shall constitute the consent of the plant owner to produce such information as the board may reasonably require to carry out this subdivision (2)(G), including information the board deems necessary to determine a generic cost in setting the price. The board shall have authority to require the production of such information from a plant that files a statement of interest. For the purpose of this subdivision (2)(G):

(i) "Existing hydroelectric plant" means a hydroelectric plant located in the state that was in service as of January 1, 2009 and does not, as of the effective date of this subdivision (2)(G), have an agreement with the public service board's purchasing agent for the purchase of its power pursuant to subdivision 209(a)(8) of this title and board rules adopted under that subdivision. The term includes hydroelectric plants that have never had such an agreement and hydroelectric plants for which such an agreement expired prior to the effective date of this subdivision (2)(G).

(ii) The provisions of subdivisions (2)(B)(i)(I)–(III) of this subsection (standard offer pricing criteria) shall apply, except that:

(I) The term "generic cost," when applied by the board to determine the price of a standard offer for an existing hydroelectric plant, shall mean the cost to own, reliably operate, and maintain such a plant for the duration of the standard offer contract. In determining this cost, the board shall consider including a generic assumption with respect to rehabilitation costs based on relevant factors such as the age of the potentially eligible plants; recently constructed or currently proposed rehabilitations to such plants; the investment that a reasonably prudent person would have made in such a plant to date under the circumstances of the plant, including the price received for power; and the availability for such a plant of improved technology.

(II) The incentive described under subdivision (2)(B)(i)(III) of this subsection shall be an incentive for continued safe, efficient, and reliable operation of existing hydroelectric plants.

* * *

(5) Require all Vermont retail electricity providers to purchase ~~through~~ from the SPEED ~~program~~ facilitator, in accordance with subdivision (g)(2) of this section, the power generated by the plants that accept the standard offer required to be issued under subdivision (2) of this subsection. For the purpose of this subdivision (5), the board and the SPEED facilitator constitute instrumentalities of the state.

* * *

(e) ~~By no later than September 1, 2006, the public service~~ The board shall provide, by order or rule, the regulations and procedures that are necessary to allow the public service board and the department of public service to implement, and to supervise further the implementation and maintenance of the SPEED program. These rules shall assure that decisions with respect to certificate of public good applications for SPEED resources shall be made in a timely manner.

* * *

(g) With respect to executed contracts for standard offers under this section:

* * *

(2) The SPEED facilitator shall distribute the electricity purchased ~~and any associated costs~~ to the Vermont retail electricity providers at the price paid to the plant owners, allocated to the providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay the SPEED facilitator for ~~those costs~~ the electricity. ~~For the purpose of this subdivision, a Vermont retail electricity provider shall receive a credit toward its share of those costs for any plant with a plant capacity of 2.2 MW or less that it owns or operates and that is commissioned on or after September 30, 2009. The amount of such credit shall be the amount that the plant owner otherwise would be eligible to receive, if the owner were not a retail electricity provider, under a standard offer in effect at the time of commissioning. The amount of any such credit shall be redistributed to the Vermont retail electricity providers on a basis such that all providers pay for a proportionate volume of plant capacity up to the 50 MW ceiling for standard offer contracts stated in subdivision (b)(2) of this section.~~

* * *

(m) The state and its instrumentalities shall not be liable to a plant owner or retail electricity provider with respect to any matter related to SPEED, including costs associated with a standard offer contract under this section or

any damages arising from breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid.

* * *

Sec. 9. IMPLEMENTATION; BOARD PROCEEDINGS

(a) By October 1, 2011, the board shall take all appropriate steps to effect the notice required by Sec. 8, 30 V.S.A. § 8005(b)(2)(G) (existing hydroelectric plants).

(b) By March 1, 2012, the board shall conduct and complete such proceedings and issue such orders as necessary to effect the standard offer required by Sec. 8 of this act, 30 V.S.A. § 8005(b)(2)(G) (existing hydroelectric plants). The board shall not be required to conduct such proceedings as a contested case under 3 V.S.A. chapter 25.

(c) Commencing April 1, 2012, the board shall make available the standard offer required by Sec. 8 of this act, 30 V.S.A. § 8005(b)(2)(G) (existing hydroelectric plants).

Sec. 10. 30 V.S.A. § 30 is amended to read:

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

(a)(1) A person, company or corporation subject to the supervision of the board or the department of public service, who refuses the board or the department of public service access to the books, accounts or papers of such person, company or corporation within this state, so far as may be necessary under the provisions of this title, or who fails, other than through negligence, to furnish any returns, reports or information lawfully required by it, or who willfully hinders, delays or obstructs it in the discharge of the duties imposed upon it, or who fails within a reasonable time to obey a final order or decree of the board, or who violates a provision of ~~chapters~~ chapter 7 ~~or~~, 75, or 89 of this title, or a provision of section 231 or 248 of this title, or a rule of the board, shall be required to pay a civil penalty as provided in subsection (b) of this section, after notice and opportunity for hearing.

* * *

* * * Baseload Renewable Portfolio Requirement * * *

Sec. 11. 30 V.S.A. § 8009 is added to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO REQUIREMENT

(a) In this section:

(1) "Baseload renewable power" means a plant that generates electricity from renewable energy; that, during normal operation, is capable of taking all or part of the minimum load on an electric transmission or distribution system; and that produces electricity essentially continuously at a constant rate.

(2) "Baseload renewable power portfolio requirement" means an annual average of 175,000 MWh of baseload renewable power from an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011.

(3) "Biomass" means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of 30 V.S.A. § 8002(2).

(4) "Vermont composite electric utility system" means the combined generation, transmission, and distribution resources along with the combined retail load requirements of the Vermont retail electricity providers.

(b) Notwithstanding subsection 8004(a) and subdivision 8005(d)(1) of this title, commencing November 1, 2012, the electricity supplied by each Vermont retail electricity provider to its customers shall include the provider's pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, 2022.

(c) A plant used to satisfy the baseload renewable power portfolio requirement shall be a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292.

(d) The board shall determine the price to be paid to a plant used to satisfy the baseload renewable power portfolio requirement. The board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25. The price shall be the avoided cost of the Vermont composite electric utility system. For the purpose of this subsection, the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase from the plant proposed to satisfy the baseload renewable power portfolio requirement, such providers would obtain from a new source using the same generation technology as the proposed plant. For the purpose of this subsection, the term "avoided cost" also includes the board's consideration of each of the following:

(1) The relevant cost data of the Vermont composite electric utility system.

(2) The terms of the potential contract, including the duration of the obligation.

(3) The availability, during the system's daily and seasonal peak periods, of capacity or energy from a proposed plant.

(4) The relationship of the availability of energy or capacity from the proposed plant to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(5) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the proposed plant.

(6) The supply and cost characteristics of the proposed plant, including the costs of operation and maintenance of an existing plant during the term of a proposed contract.

(e) In determining the price under subsection (d) of this section, the board may require a plant proposed to be used to satisfy the baseload renewable power portfolio requirement to produce such information as the board reasonably deems necessary.

(f) With respect to a plant used to satisfy the baseload renewable power portfolio requirement:

(1) The electricity purchased and any associated costs shall be allocated to the Vermont retail electricity providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay those costs.

(2) Any tradeable renewable energy credits attributable to the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection.

(3) All capacity rights attributable to the plant capacity associated with the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection.

(4) All reasonable costs of a Vermont retail electricity provider incurred under this section shall be included in the provider's revenue requirement for purposes of ratemaking under sections 218, 218d, 225, and 227 of this title. In including such costs, the board shall appropriately account for any credits received under subdivision (2) of this subsection. Costs included in a retail electricity provider's revenue requirement under this subdivision shall be allocated to the provider's ratepayers as directed by the board.

(g) A retail electricity provider shall be exempt from the requirements of this section if, and for so long as, one-third of the electricity supplied by the provider to its customers is from a plant that produces electricity from woody biomass.

(h) The board may issue rules or orders to carry out this section.

* * * Clean Energy Development Fund and Support Charge * * *

Sec. 12. 10 V.S.A § 6523 is amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

(a) Creation of fund.

(1) There is established the Vermont clean energy development fund to consist of each of the following:

(A) The proceeds due the state under the terms of the memorandum of understanding between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered under public service board docket 6812; together with the proceeds due the state under the terms of any subsequent memoranda of understanding entered before July 1, 2005 between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc.

(B) The proceeds of the clean energy support charge established under section 6525 of this title.

(C) Any other monies that may be appropriated to or deposited into the 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.

* * *

(2) If during a particular year, the ~~clean energy development board~~ commissioner of public service determines that there is a lack of high value projects eligible for funding, as identified in the five-year plan, or as otherwise identified, the ~~clean energy development board may~~ commissioner shall consult with the ~~public service~~ clean energy development board, and shall consider transferring funds to the energy efficiency fund established under the provisions of 30 V.S.A. § 209(d). Such a transfer may take place only in response to an opportunity for a particularly cost-effective investment in energy efficiency, and only as a temporary supplement to funds collected under that subsection, not as replacement funding.

(3) A sum equal to the cost for the 2010 and preceding tax years of the business solar energy income tax credits authorized in 32 V.S.A. § 5822(d) and 5930z(a), net of any such costs for which a transfer has already been made under this subdivision, shall be transferred ~~annually~~ from the clean energy development fund to the general fund.

(e) Management of fund.

(1) ~~There is created the clean energy development board, which shall consist of the following nine directors:~~

~~(A) Three at-large directors appointed by the speaker of the house;~~

~~(B) Three at-large directors appointed by the president pro tempore of the senate.~~

~~(C) Two at-large directors appointed by the governor.~~

~~(D) The state treasurer, ex officio.~~ This fund shall be administered by the department of public service to facilitate the development and implementation of clean energy resources. The department is authorized to expend moneys from the clean energy development fund in accordance with this section. The commissioner of the department shall make all decisions necessary to implement this section and administer the fund except those decisions committed to the clean energy development board under this subsection. The department shall assure an open public process in the administration of the fund for the purposes established in this subchapter.

(2) During fiscal years after FY 2006, up to five percent of amounts appropriated to the public service department from the fund may be used for administrative costs related to the clean energy development fund ~~and after FY 2007, another five percent of amounts appropriated to the public service department from the fund not to exceed $300,000.00 in any fiscal year shall be~~

~~transferred to the secretary of the agency of agriculture, food and markets for agricultural and farm-based energy project development activities~~.

(3) ~~A quorum of the clean energy development board shall consist of five directors. The directors of the board shall select a chair and vice chair.~~ There is created the clean energy development board, which shall consist of seven persons appointed in accordance with subdivision (4) of this subsection. The clean energy development board shall have decision-making and approval authority with respect to the plans, budget, and program designs described in subdivisions (7)(B)–(D) of this subsection. The clean energy development board shall function in an advisory capacity to the commissioner on all other aspects of this section's implementation.

(4) ~~In making appointments of at-large directors to the clean energy development board, the appointing authorities shall give consideration to citizens of the state with knowledge of relevant technology, regulatory law, infrastructure, finance, and environmental permitting. A director shall recuse himself or herself from all matters and decisions pertaining to a company or corporation of which the director is an employee, officer, partner, proprietor, or board member. The at-large directors of the board shall serve terms of four years beginning July 1 of the year of appointment. However, one at-large director appointed by the speaker and one at-large director appointed by the president pro tempore shall serve an initial term of two years. Any vacancy occurring among the at-large directors shall be filled by the respective appointing authority and shall be filled for the balance of the unexpired term. A director may be reappointed.~~ The commissioner of public service shall appoint three members of the clean energy development board, and the chairs of the house and senate committees on natural resources and energy each shall appoint two members of the clean energy development board. The terms of the members of the clean energy development board shall be four years, except that when appointments to this board are made for the first time after the effective date of this act, each appointing authority shall appoint one member for a two-year term and the remaining members for four-year terms. When a vacancy occurs in the board during the term of a member, the authority who appointed that member shall appoint a new member for the balance of the departing member's term.

(5) Except for those ~~directors~~ members of the clean energy development board otherwise regularly employed by the state, the compensation of the ~~directors~~ members shall be the same as that provided by ~~subsection~~ 32 V.S.A. § 1010(a) ~~of Title 32. All directors of the clean energy development board, including those directors otherwise regularly employed by the state, shall receive their actual and necessary expenses when away from home or office upon their official duties~~.

(6) ~~At least every three years, the clean energy development board shall commission a detailed financial audit by an independent third party of the fund and the activities of the fund manager, which shall make available to the auditor its books, records, and any other information reasonably requested by the board or the auditor for the purpose of the audit.~~

~~(7)~~ In performing its duties, the clean energy development board may utilize the legal and technical resources of the department of public service ~~or, alternatively, may utilize reasonable amounts from the clean energy development fund to retain qualified private legal and technical service providers~~. The department of public service shall provide the clean energy development board ~~and its fund manager~~ with administrative services.

~~(8)~~(7) The ~~clean energy development board~~ department shall perform each of the following:

(A) By January 15 of each year, ~~commencing in 2010,~~ provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce and economic development a report for the fiscal year ending the preceding June 30 detailing the activities undertaken, the revenues collected, and the expenditures made under this subchapter.

(B) Develop, and submit to the clean energy development board for review and approval, a five-year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process and shall be consistent with state energy planning principles.

(C) Develop, and submit to the clean energy development board for review and approval, an annual operating budget.

(D) Develop, and submit to the clean energy development board for review and approval, proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive programs and strategies).

~~(9)~~(8) At least ~~quarterly~~ annually, the clean energy development board and the commissioner or designee jointly shall hold a public meeting to review and discuss the status of the fund, fund projects, the performance of the fund manager, any reports, information, or inquiries submitted by the fund manager or the public, and any additional matters ~~the clean energy development board deems~~ they deem necessary to fulfill ~~its~~ their obligations under this section.

~~(10) The clean energy development board shall administer and is authorized to expend monies from the clean energy development fund in accordance with this section.~~

(f) Clean energy development fund manager. The clean energy development fund shall have a fund manager who shall be ~~a state~~ an employee ~~retained and supervised by the board and housed within and assigned for administrative purposes to~~ of the department of public service.

(g) Bonds. The commissioner of public service, in consultation with the clean energy development board, may explore use of the fund to establish one or more loan-loss reserve funds to back issuance of bonds by the state treasurer otherwise authorized by law, including clean renewable energy bonds, that support the purposes of the fund.

(h) ARRA funds. All American Recovery and Reinvestment Act (ARRA) funds described in section 6524 of this title shall be disbursed, administered, and accounted for in a manner that ensures rapid deployment of the funds and is consistent with all applicable requirements of ARRA, including requirements for administration of funds received and for timeliness, energy savings, matching, transparency, and accountability. These funds shall be expended for the following categories listed in this subsection, provided that no single project directly or indirectly receives a grant in more than one of these categories. ~~The~~ After consultation with the clean energy development board, the commissioner of public service shall have discretion to use non-ARRA moneys within the fund to support all or a portion of these categories and shall direct any ARRA moneys for which non-ARRA moneys have been substituted to the support of other eligible projects, programs, or activities under ARRA and this section.

* * *

(4) $2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. For the purpose of this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process. ~~On or before January 15, 2011, the clean energy development board shall report to the general assembly on the status of this program, including each award made and, for each such award, the expected energy savings or generation and the actual energy savings or generation achieved.~~

* * *

(8) Concerning the funds authorized for use in subdivisions (4)–(7) of this subsection:

(A) To the extent permissible under ARRA, up to five percent may be spent for administration of the funds received.

(B) In the event that the ~~clean energy development board~~ commissioner of public service determines that a recipient of such funds has insufficient eligible projects, programs, or activities to fully utilize the authorized funds, then after consultation with the clean energy development board, the commissioner shall have discretion to reallocate the balance to other eligible projects, programs, or activities under this section.

(9) The ~~clean energy development board~~ commissioner of public service is authorized, to the extent allowable under ARRA, to utilize up to 10 percent of ARRA funds received for the purpose of administration. The ~~board~~ commissioner shall allocate a portion of the amount utilized for administration to retain permanent, temporary, or limited service positions or contractors and the remaining portion to the oversight of specific projects receiving ARRA funding ~~through the board~~ pursuant to section 6524 of this title.

(i) Rules. The department and the clean energy development board each may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out its functions under this section~~. The board~~ and shall consult with ~~the commissioner of public service~~ each other either before or during the rulemaking process.

~~(j) Governor disapproval. The governor shall have the authority within 30 days of approval or adoption to disapprove a project, program, or other activity approved by the clean energy development board if the source of the funds is ARRA; and any rules adopted under subsection (i) of this section. The governor may at any time waive his or her authority to disapprove any project, program, or other activity or rule under this subsection.~~

Sec. 13. CLEAN ENERGY DEVELOPMENT BOARD; TRANSITION; TERM EXPIRATION; NEW APPOINTMENTS

(a) The terms of all members of the clean energy development board under 10 V.S.A. § 6523 appointed prior to the effective date of this section shall expire on September 30, 2011.

(b) No later than August 31, 2011, the appointing authorities under Sec. 12 of this act, 10 V.S.A. § 6523(e)(4), shall appoint the members of the clean energy development board created by Sec. 12, 10 V.S.A. § 6523(e)(3). The terms of the members so appointed shall commence on October 1, 2011. The appointing authorities may appoint members of the clean energy development board as it existed prior to the effective date of this section.

(c) With respect to the clean energy development fund established under 10 V.S.A. § 6523, as of October 1, 2011:

(1) The department of public service shall be the successor to the clean energy development board as it existed on September 30, 2011, and any legal obligations incurred by the clean energy development board as of September 30, 2011 shall become legal obligations of the department of public service.

(2) The clean energy development board shall exercise prospectively such functions and authority as this act confers on that board.

Sec. 14. 10 V.S.A. § 6524 is amended to read:

§ 6524. ARRA ENERGY MONEYS

The expenditure of each of the following shall be subject to the direction and approval of the commissioner of public service, after consultation with the clean energy development board established under subdivision ~~6523(e)(1)~~ 6523(e)(4) of this title, and shall be made in accordance with subdivisions 6523(d)(1)(expenditures authorized), ~~(e)(3)(quorum), (e)(4)(appointments; recusal), (e)(5)(compensation), (e)(7)(assistance, administrative support),~~ and (e)(8)(A)(reporting) and subsections 6523(f)(fund manager), (h)(ARRA funds), and (i)(rules)~~, and (j)(governor disapproval)~~ of this title and applicable federal law and regulations:

(1) The amount of $21,999,000.00 in funds received by the state under the appropriation contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, to the state energy program authorized under 42 U.S.C. § 6321 et seq.

(2) The amount of $9,593,500.00 received by the state under ARRA from the United States Department of Energy through the energy efficiency and conservation block grant program.

Sec. 15. 10 V.S.A. § 6525 is added to read:

§ 6525. CLEAN ENERGY SUPPORT CHARGE

(a) Monthly, each Vermont retail electricity provider shall assess on each retail customer's electric bill a clean energy support charge of $0.55.

(b) At the end of each monthly billing cycle, a Vermont retail electricity provider shall transmit to the clean energy development fund the total amount of the clean energy support charge assessed to the provider's customers during the immediately preceding monthly billing cycle.

(c) The amount of the clean energy support charge shall be part of the total payment due on the customer's electric bill and shall be subject to the deposit and disconnection rules of the board.

Sec. 16. NOTICE; IMPLEMENTATION

A Vermont retail electricity provider within the meaning of 30 V.S.A. § 8002(9) shall:

(1) No later than 60 days after passage of this act, provide notice to its customers, in a form directed by the commissioner of public service, of the clean energy support charge under Sec. 15 (10 V.S.A. § 6525) of this act.

(2) Implement Sec. 15 of this act (clean energy support charge) on bills rendered on and after 90 days following passage of this act.

Sec. 17. RECODIFICATION; REDESIGNATION; PROSPECTIVE REPEAL

(a) 10 V.S.A. §§ 6523, 6524, and 6525 are recodified respectively as 30 V.S.A. §§ 8015, 8016, and 8017. The office of legislative council shall revise accordingly any references to these statutes contained in the Vermont Statutes Annotated. Any references in session law to these statutes as previously codified shall be deemed to refer to the statutes as recodified by this act.

(b) Within 30 V.S.A. chapter 89 (renewable energy programs):

(1) §§ 8001–8014 shall be within subchapter 1 and designated to read:

Subchapter 1. General Provisions

(2) §§ 8015–8017 shall be within subchapter 2 and designated to read:

Subchapter 2. Clean Energy Development Fund

(c) 30 V.S.A. § 8017 (clean energy support charge) shall be repealed on July 1, 2014.

Sec. 18. STATUTORY REVISION

In all provisions of 30 V.S.A. chapter 89, except 30 V.S.A. § 8002(10) and (16)–(20), the office of legislative council shall substitute "board" for "public service board," "department" for "department of public service," "kW" for "kilowatt" or "kilowatts (AC)," "kWh" for "kilowatt hours," and "MW" for "megawatt" or "megawatts."

* * * Heating Oil; Low Sulfur; Biodiesel * * *

Sec. 19. 10 V.S.A. § 585 is added to read:

§ 585. HEATING OIL CONTENT; SULFUR, BIODIESEL

(a) Definitions.

(1) In this section, "heating oil" means No. 2 distillate that meets the specifications or quality certification standard for use in residential,

commercial, or industrial heating applications established by the American Society for Testing and Materials (ASTM).

(2) "Biodiesel" means monoalkyl esters derived from plant or animal matter which meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. § 7545), and the requirements of ASTM D6751-10.

(b) Sulfur content. Unless a requirement of this subsection is waived pursuant to subsection (e) of this section:

(1) On or before July 1, 2014, all heating oil sold within the state for residential, commercial, or industrial uses, including space and water heating, shall have a sulfur content of 500 parts per million or less.

(2) On or before July 1, 2018, all heating oil sold within the state for residential, commercial, or industrial uses, including space and water heating, shall have a sulfur content of 15 parts per million or less.

(c) Biodiesel content. Unless a requirement of this subsection is waived pursuant to subsection (e) of this section, all heating oil sold within the state for residential, commercial, or industrial uses, including space and water heating, by volume shall:

(1) On or before July 1, 2012, contain at least three percent biodiesel.

(2) On or before July 1, 2015, contain at least five percent biodiesel.

(3) On or before July 1, 2016, contain at least seven percent biodiesel.

(d) Blending; certification. In the case of biodiesel and heating oil that has been blended by a dealer or seller of heating oil, the secretary may allow the dealer or seller to demonstrate compliance with this section by providing documentation that the content of the blended fuel in each delivery load meets the requirements of this section.

(e) Temporary suspension. The governor, by executive order, may temporarily suspend the implementation and enforcement of subsection (b) or (c) of this section if the governor determines, after consulting with the secretary and the commissioner of public service, that meeting the requirements is not feasible due to an inadequate supply of the required fuel.

(f) The secretary may adopt rules to implement this section. This section does not limit any authority of the secretary to control the sulfur or biodiesel content of distillate or residual oils that do not constitute heating oil as defined in this section.

* * * Report; Payment of Utility Bills by Credit or Debit Card * * *

Sec. 20. UTILITY BILL PAYMENT; CREDIT OR DEBIT CARD; REPORT

On or before January 15, 2012, the public service board shall submit to the general assembly a report on whether, in the board's opinion, it is in the public interest for the cost of service of a company subject to the board's jurisdiction under 30 V.S.A. § 203 to include fees and expenses incurred by the company in accepting payments from customers of retail charges by credit or debit card. In its report, the board shall consider and discuss the advantages and disadvantages of including these fees and expenses in a company's cost of service, including the extent to which allowing inclusion of such fees and expenses may avoid or reduce costs that would otherwise be incurred by the company, shall quantify on a statewide basis the expected cost impacts of allowing such inclusion, and shall attach a draft statute or statutory amendment that would authorize such inclusion.

Sec. 21. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) The following shall take effect on passage:

(1) Sec. 1 of this act (net metering), except that 30 V.S.A. § 219a(c)(1) (systems of 5 kW or less) shall take effect on January 1, 2012. Sec. 2(d) of this act shall govern the date by which an electric distribution company shall implement the following provisions contained in Sec. 1 of this act: 30 V.S.A. § 219a(e)(3) (credit for excess generation), (f)(3) (credit for excess generation), and (g) (group net metering; allocation of credits; direct billing of group members).

(2) Secs. 2 (implementation; retroactive application), 3 (self-managed energy efficiency programs), 4 (retroactive application), 6 (renewable energy goals), 7 (definitions, renewable energy chapter), 9 (implementation; board proceedings), 10 (penalties), 13 (clean energy development board; term expiration; transition; new appointments), 16 (notice; implementation), and 20 (payment of utility bills by credit or debit card) of this act.

(3) Sec. 8 (SPEED program) of this act, except that Sec. 9 (board proceedings) of this act shall govern the date on which the availability of the standard offer revision described in Sec. 9(c) (existing hydroelectric plants) shall commence.

(4) In Sec. 12 (clean energy development fund) of this act: 10 V.S.A. § 6523(e)(3) (clean energy development board) and (4) (appointments to clean energy development board) for the purpose of Sec. 13 of this act.

(c) The following shall take effect on July 1, 2011: Secs. 5 (new gas and electric purchases); 11 (baseload renewable power portfolio requirement); 17 (recodification; redesignation); 18 (statutory revision); and 19 (heating oil) of this act, except for 10 V.S.A. § 585(c) (heating oil; biodiesel requirement).

(d) Except as provided under subdivision (b)(4) of this section, Secs. 12 (clean energy development fund) and 14 (ARRA energy moneys) shall take effect on October 1, 2011.

(e) Sec. 15 (clean energy support charge) of this act shall take effect 90 days after the act's passage.

(f)(1) In Sec. 19 of this act, 10 V.S.A. § 585(c) (heating fuel; biodiesel requirement) shall take effect on the later of the following:

(A) July 1, 2012.

(B) The date on which, through legislation, rule, agreement, or other binding means, the last of the surrounding states has adopted requirements that are substantially similar to or more stringent than the requirements contained in 10 V.S.A. § 585(c). The attorney general shall determine when this date has occurred.

(2) For the purpose of this subsection, the term "surrounding states" means the states of Massachusetts, New Hampshire, and New York, and the term "last" requires that all three of the surrounding states have adopted a substantially similar or more stringent requirement.

(Committee Vote: 9-2-0)

H. 66

An act relating to the illegal taking of trophy big game animals

Rep. Munger of South Burlington, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4514 is amended to read:

§ 4514. POSSESSION OF FLESH OF GAME

(a) When legally taken, the flesh of a fish or wild animal may be possessed for food for a reasonable time thereafter and such flesh may be transported and stored in a public cold storage plant. Nothing in this section shall authorize the possession of game birds or carcasses or parts thereof contrary to regulations made pursuant to the migratory bird treaty act.

(b) Any person convicted of illegally taking, destroying or possessing wild animals shall, in addition to other penalties provided under this chapter, pay

into the fish and wildlife fund for each animal taken, destroyed or possessed, no more than the following amounts:

(1) Big game ~~$1,000.00~~ $2,000.00 each

(2) Endangered or threatened species as defined in section 5401 of this title ~~1,000.00~~ $2,000.00 each

(3) Small game ~~250.00~~ $500.00 each

(4) Fish ~~25.00~~ $25.00 each

Sec. 2. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS

Whoever violates a provision of this part or orders or rules of the board relating to taking, possessing, transporting, buying, or selling of big game shall be fined not more than ~~$500.00~~ $1,000.00 nor less than ~~$200.00~~ $400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions, the violator shall be fined not more than ~~$1,000.00~~ $2,000.00 nor less than ~~$500.00~~ $1,000.00 or imprisoned for not more than ~~60~~ 120 days, or both.

Sec. 3. 10 V.S.A. § 4258 is amended to read:

§ 4258. LICENSE; ARMED FORCES

A license to hunt or fish shall be issued, upon payment of the resident license fee, to any member of the armed forces of the United States of America who is on active duty and stationed at some military, air or naval post, station or base within the state. Said member of the armed forces, desiring a hunting or fishing license, ~~must present a certificate from the commander of said post, station or base, or his designated agent, that the person mentioned in the certification is stationed at or attached to said post, station or base~~ shall certify that he or she is eligible for such a license under this section. Holders of such licenses shall be subject to all the laws of the state and the rules and regulations of the board regulating hunting and fishing; and for violations of said laws or rules and regulations, shall be subject to the penalties prescribed therefor, and such licenses shall be revoked in the same manner as provided in section 4502 of this title.

Sec. 4. 10 V.S.A. § 4259 is amended to read:

§ 4259. VERMONT RESIDENTS; ARMED FORCES

Any resident of the state of Vermont who is serving in the armed forces of the United States or is performing or under orders to perform any homeland defense or state-side contingency operation, or both, for a period of 120

consecutive days or more~~, as certified by the Adjutant General for the Vermont National Guard is eligible~~ shall certify that he or she is eligible under this section to obtain at no cost a hunting or fishing license or a combination hunting and fishing license. This provision will apply only during the period he or she is serving in the armed forces of the United States, or as certified pursuant to this section. A person who obtains a license under this section may keep the license until it expires, whether or not the person continues to serve in the armed forces until the expiration date.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(Committee Vote: 9-0-0)

H. 73

An act relating to establishing a government transparency office to enforce the public records act

Rep. Hubert of Milton, for the Committee on **Government Operations,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 315 is amended to read:

§ 315. STATEMENT OF POLICY

It is the policy of this subchapter to provide for ~~free and~~ open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the general assembly hereby declares that certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed ~~with the view towards carrying out the above declaration of public policy~~ to implement this policy, and the burden of proof shall be on the public agency to sustain its action.

Sec. 2. 1 V.S.A. § 316 is amended to read:

§ 316. ACCESS TO PUBLIC RECORDS AND DOCUMENTS

(a) Any person may inspect or copy any public record ~~or document~~ of a public agency, as follows:

(1) For any agency, board, department, commission, committee, branch instrumentality, or authority of the state, a person may inspect a public record on any day other than a Saturday, Sunday, or a legal holiday, between the hours of nine o'clock and 12 o'clock in the forenoon and between one o'clock and four o'clock in the afternoon; ~~provided, however, if the public agency is not regularly open to the public during those hours, inspection or copying may be made~~

(2) For any agency, board, committee, department, instrumentality, commission, or authority of a political subdivision of the state, a person may inspect a public record during customary ~~office~~ business hours.

(b) If copying equipment maintained for use by a public agency is used by the agency to copy the public record or document requested, the agency may charge and collect from the person requesting the copy the actual cost of providing the copy. The agency may also charge and collect from the person making the request, the costs associated with mailing or transmitting the record by facsimile or other electronic means. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of public records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

(c) In the following instances an agency may also charge and collect the cost of staff time associated with complying with a request ~~for a~~ to inspect or to copy of a public record: (1) the time directly involved in complying with the request exceeds ~~30 minutes~~ two hours; (2) the agency agrees to create a public record; or (3) the agency agrees to provide the public record in a nonstandard format and the time directly involved in complying with the request exceeds ~~30 minutes~~ two hours. The agency may require that requests subject to staff time charges under this subsection be made in writing and that all charges be paid, in whole or in part, prior to delivery of the copies. Upon request, the agency shall provide an estimate of the charge.

(d) The secretary of state, after consultation with the secretary of administration, shall establish the actual cost of providing a copy of a public record that may be charged by state agencies. The secretary shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine "actual cost" the secretary shall consider the following only: the cost of the paper or the electronic media onto which a public record is copied, a prorated amount for maintenance and replacement of the machine or equipment used to copy the record and any utility charges directly associated with copying a record. The secretary of state shall adopt, by rule, a uniform schedule of public record charges for state agencies.

(e) After public hearing, the legislative body of a political subdivision shall establish actual cost charges for copies of public records. The legislative body shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine actual cost charges, the legislative body shall use the same factors used by the secretary of state. If a legislative body fails to establish a uniform schedule of charges, the charges for that political subdivision shall be the uniform schedule of charges established by the secretary of state until the local legislative body establishes such a schedule. A schedule of public records charges shall be posted in prominent locations in the town offices.

* * *

Sec. 3. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

(a) As used in this subchapter~~,~~:

(1) "~~public~~ Public agency" or "agency" means any agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state. "Public agency" shall include a quasi-public agency.

(2) "Public record" or "public document" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying. "Public record" shall include written or recorded information produced or acquired by a quasi-public agency that relates to the governmental function performed by the quasi-public agency.

(3) "Quasi-public agency" means a nongovernmental authority that:

(A) receives $250,000.00 or more a year by or through a public agency; and

(B) performs a governmental function on behalf of a public agency.

(b) ~~As used in this subchapter, "public record" or "public document" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to~~

~~elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying~~

(1) A person's "right to privacy" or "personal privacy," as these terms are used in this subchapter, is violated or invaded only if disclosure of information about the person reveals intimate details of a person's life, including any information that might subject the person to embarrassment, harassment, disgrace, or loss of employment or friends.

(2) The provisions of this subchapter addressing the "right to privacy" or "personal privacy" in personal and economic pursuits do not create any right beyond the rights specified under subsection (c) of this section as express exemptions to the public's right to inspect or copy public records.

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(7) personal documents relating to an individual, including information in any files maintained to hire, evaluate, promote or discipline any employee of a public agency, information in any files relating to personal finances, medical or psychological facts concerning any individual or corporation if disclosure of information would violate the individual's right to privacy as defined in subsection (b) of this section; provided, however, that all information in personnel files of an individual employee of any public agency shall be made available to that individual employee or his or her designated representative;

Sec. 4. 1 V.S.A. § 318 is amended to read:

§ 318. PROCEDURE

(a) Upon request, the custodian of a public record shall promptly produce the record for inspection, except that:

(1) if the record is in active use or in storage and therefore not available for use at the time the person asks to examine it, the custodian shall so certify this fact in writing to the applicant and set a date and hour within one calendar week of the request when the record will be available for examination;

(2) if the custodian considers the record to be exempt from inspection under the provisions of this subchapter, the custodian shall so certify in writing. Such certification shall identify the records withheld and the basis for the denial. ~~The~~ A record shall be produced for inspection or a certification shall be made that a record is exempt within ~~two~~ three business days of receipt of the request, unless otherwise provided in subdivision (5) of this subsection.

The certification shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial. The custodian shall also notify the person of his or her right to appeal to the head of the agency any adverse determination;

(3) if appealed to the head of the agency, the head of the agency shall make a determination with respect to any appeal within five business days, excepting Saturdays, Sundays, and legal public holidays, after the receipt of such appeal. If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of this title;

(4) if a record does not exist, the custodian shall certify in writing that the record does not exist under the name given to the custodian by the applicant or by any other name known to the custodian;

(5) in unusual circumstances as herein specified the time limits prescribed in this subsection may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten ~~working~~ business days from receipt of the request. As used in this subdivision, "unusual circumstances" means to the extent reasonably necessary to the proper processing of the particular request:

(A) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(C) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the attorney general.

(b) Any person making a request to any agency for records under subsection (a) of this section shall be deemed to have exhausted the person's administrative remedies with respect to each request if the agency fails to comply within the applicable time limit provisions of this section. Upon any determination by an agency to comply with a request for records, the records shall be made available promptly to the person making such request. Any notification of denial of any request for records under this section shall set

forth the names and titles or positions of each person responsible for the denial of such request.

(c)(1) Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination on an appeal within five business days after the receipt of the appeal. A written determination shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial.

(2) If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. A failure by the agency to comply with any of the time limit provisions of this section shall be deemed a final denial of the request for records by the agency.

(d) In responding to a request to inspect or copy a record under this subchapter, a public agency shall consult with the person making the request in order to clarify the request or to obtain additional information that will assist the public agency in responding to the request and, when authorized by this subchapter, in facilitating production of the requested record for inspection or copying. In unusual circumstances, as that term is defined in subdivision (a)(5) of this section, a public agency may request that a person seeking a voluminous amount of separate and distinct records narrow the scope of a public records request.

(e) A public agency shall not withhold any record in its entirety on the basis that it contains some exempt content if the record is otherwise subject to disclosure; instead, the public agency shall redact the information it considers to be exempt and produce the record accompanied by an explanation of the basis for denial of the redacted information.

(f) If a person making the request has a disability which requires accommodation to gain equal access to the public record sought, the person shall notify the public agency of the type of accommodation requested. The public agency shall give primary consideration to the accommodation choice expressed by the requestor, but may propose an alternative accommodation so long as it achieves equal access. The public agency shall provide accommodation to the person making the request unless the agency can demonstrate that accommodation would result in a fundamental alteration in the nature of its service, programs, activities, or in undue financial and administrative burden.

(g) A request for a public record produced or acquired by a quasi-public agency shall be submitted to the public records officer of the public agency by or through which the quasi-public agency is funded. A person aggrieved by a denial of a request for a public record produced or acquired by a quasi-public

agency may seek against the public agency that funded the quasi-public agency enforcement under section 319 of this title of the requirements of this subchapter.

Sec. 5. 1 V.S.A. § 319 is amended to read:

§ 319. ENFORCEMENT

(a) Any person aggrieved by the denial of a request for public records under this subchapter may apply to the civil division of the superior court in the county in which the complainant resides, or has his or her personal place of business, or in which the public records are situated, or in the civil division of the superior court of Washington County, to enjoin the public agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case, the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in section 317 of this title, and the burden ~~is~~ of proof shall be on the public agency to sustain its action.

(b) Except as to cases the court considers of greater importance, proceedings before the civil division of the superior court, as authorized by this section, and appeals there from, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(c) If the public agency can show the court that exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records.

(d) The court ~~may~~ shall assess against the public agency reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed, except that if an attorney who enters an appearance on behalf of the public agency concedes that a contested record or records are public within 10 business days of entering an appearance, the court, in its discretion, may award attorney's fees to the substantially prevailing party.

Sec. 6. 1 V.S.A. § 320(b) is amended to read:

(b) In the event of noncompliance with the order of the court, the civil division of the superior court may punish for contempt the responsible employee or official, and in the case of a uniformed service, the responsible member.

Sec. 7. 3 V.S.A. § 117(g) is amended to read:

(g) In fulfilling the duties of the state archives and records administration program, the state archivist shall:

(1) establish and administer a records management program for the application of effective and efficient methods to the creation, utilization, maintenance, reformatting, retention, destruction, and preservation of public records;

(2) cooperate with the heads of state agencies or public bodies to establish and maintain a program for the appraisal and scheduling of public records;

(3) analyze, develop, establish, and coordinate standards, procedures, and techniques for the creation of, preservation of, and access to public records;

(4) take custody of archival records in accordance with record schedules approved by the state archivist;

(5) maintain a record center to hold inactive records in accordance with records schedules approved by the state archivist;

(6) arrange, describe, and preserve archival records, and promote their use by government officials and the public;

(7) permit the public to inspect, examine, and study the archives, provided that any record placed in the keeping of the office of the secretary of state under special terms or conditions of law restricting their use shall be made accessible only in accord with those terms and conditions;

(8) cooperate with and assist to the extent practicable state institutions, departments, agencies, municipalities, and other political subdivisions and individuals engaged in the activities in the ~~field~~ management of public records, archives, manuscripts, and history;

(9) accept for filing copies of land records submitted in microfilm, electronic media, or similar compressed form by municipal or county clerks;

(10) receive grants, gifts, aid, or assistance, of any kind, from any source, public or private, for the purpose of managing or publishing public records; ~~and~~

(11) serve on the Vermont historical records advisory board, as described in 44 U.S.C. § 2104, to encourage systematic documentation in Vermont and the collecting of archival records;

(12) have the authority, on its own motion, to issue advisory opinions as to whether a particular type of record is public and available for inspection and copying;

(13) provide municipal public agencies and members of the public information and advice regarding the requirements of the public records act, including an informational website and a toll-free telephone number during the regular business hours of the office;

(14) establish a training program for the public records officers of public agencies regarding the requirements of the public records act and the procedure and process for responding to requests to inspect or copy a public record.

Sec. 8. 1 V.S.A. § 313(a)(6) is amended to read:

(6) Discussion or consideration of records or documents excepted from the access to public records provisions of ~~subsection~~ section 317~~(b)~~ of this title. Discussion or consideration of the excepted record or document shall not itself permit an extension of the executive session to the general subject to which the record or document pertains;

Sec. 9. 3 V.S.A. § 218(d) is amended to read:

(d) The head of each state agency or department shall designate a member of his or her staff as the records officer for his or her agency or department, and shall notify the Vermont state archives and records administration in writing of the name and title of the person designated, and shall post the name and contact information of the person on the agency or department website, if one exists. The public records officer shall manage the agency's compliance with the requirements of this section and with the requirements of the public records act, as set forth in 1 V.S.A. chapter 5, subchapter 3, regarding receipt and response to requests for public records. A public records officer annually shall complete a records management training course offered by the Vermont state archives and records administration.

Sec. 10. 24 V.S.A. chapter 33, subchapter 14 is added to read:

Subchapter 14. Municipal Public Records Officer

§ 1146. MUNICIPAL PUBLIC RECORDS OFFICER

(a) On or before January 1, 2012, the legislative body of a municipality shall appoint, and determine the term of service for, a municipal public records officer.

(b) A municipal public records officer shall manage the municipality's compliance with the requirements of the public records act, as set forth in 1 V.S.A. chapter 5, subchapter 3. The municipal public records officer shall provide guidance to any agency, board, committee, department, branch, instrumentality, commission, or authority of the municipality regarding compliance with the requirements of the public records act.

(c) The name, title, and contact information for the municipal public records officer shall be posted on the municipality's website, if one exists, and in a prominent location in the municipal offices or office of the municipal clerk.

(d) A public records officer annually shall complete a records management training course offered by the Vermont state archives and records administration.

(e) As used in this section, "municipality" shall mean a city, town, or village of the state and shall mean a school district, as that term is defined in 16 V.S.A. § 11(a)(10).

Sec. 11. 9 V.S.A. § 4113(b) is amended to read:

(b) Reports filed pursuant to this section shall be an exempt record and confidential pursuant to ~~subdivision 317(b)(1) of Title 1~~ 1 V.S.A. § 317(c)(1) and shall be maintained for the sole and confidential use of the commissioner, except that the reports may be disclosed to the federal government or to the appropriate energy agency or department of another state with substantially similar confidentiality statutes for regulations with respect to such reports. However, the commissioner shall make available to appropriate committees of the general assembly statistical information derived from the reports required by this section, provided that this may be done in a manner which preserves the confidentiality of the reports submitted by particular persons.

Sec. 12. 17 V.S.A. § 2154(b) is amended to read:

(b) A registered voter's month and day of birth, driver's license number, the last four digits of the applicant's Social Security number, and street address if different from the applicant's mailing address shall not be considered a public record as defined in ~~subsection 317(b) of Title 1~~ 1 V.S.A. § 317(a)(2). Any person wishing to obtain a copy of all of the statewide voter checklist must swear or affirm, under penalty of perjury pursuant to chapter 65 of Title 13, that the person will not use the checklist for commercial purposes. The affirmation shall be filed with the secretary of state.

Sec. 13. 32 V.S.A. § 3755(e) is amended to read:

(e) Any applicant for appraisal under this subchapter bears the burden of proof as to his or her qualification. Any documents submitted by an applicant as evidence of income shall be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of ~~subdivision 317(a)(6) of Title 1~~ 1 V.S.A. § 317(c)(6).

Sec. 14. PUBLIC RECORDS LEGISLATIVE STUDY COMMITTEE

(a) There is established a legislative study committee to review the requirements of the public records act and the numerous exemptions to that act in order to assure the integrity, viability, and the ultimate purposes of the act. The review committee shall consist of:

(1) Three members of the house of representatives, appointed by the speaker of the house; and

(2) Three members of the senate, appointed by the committee on committees.

(b) The review committee shall review the exemptions set forth in 1 V.S.A. § 317 or elsewhere in the Vermont Statutes Annotated to the inspection and copying of public records under the public records act, 1 V.S.A. chapter 5, subchapter 3. Prior to each legislative session, the committee shall submit to the house and senate committees on government operations and the house and senate committees on judiciary recommendations concerning whether the public records act and exemptions under the act from inspection and copying of a public record should be repealed, amended, or remain unchanged. The report of the committee may take the form of draft legislation.

(c) In reviewing and making a recommendation under subsection (b) of this section, the study committee may review:

(1) Whether the public records act requires revision;

(2) Whether an exemption to inspection or copying under the public records act is necessary, antiquated, or in need of revision;

(3) Whether an exemption to inspection or copying under the public records act is as narrowly tailored as possible; and

(4) Any other criteria that assist the review committee in determining the value of an exemption as compared to the public's interest in the record protected by the exemption.

(d) In developing recommendations authorized under subsection (a) of this section, the study committee shall consult with the secretary of administration, the secretary of state, the office of the attorney general, representatives of municipal interests, representatives of school or education interests, representatives of the media, and advocates for access to public records.

(e) The study committee shall elect co-chairs from among its members. For attendance at a meeting when the general assembly is not in session, legislative members of the commission shall be entitled to the same per diem compensation and reimbursement for actual and necessary expenses as provided members of standing committees under 2 V.S.A. § 406. The study committee is authorized to meet no more than three times each year during the

interim between sessions of the general assembly.

(f) Legislative council shall provide legal and administrative services to the study committee. The study committee may utilize the legal, research, and administrative services of other entities, such as educational institutions and, when necessary for the performance of its duties, the Vermont state archives and records administration.

Sec. 15. LEGISLATIVE COUNCIL; LIST OF PUBLIC RECORDS ACT EXEMPTIONS

The legislative council, under its statutory revision authority set forth in 2 V.S.A. § 421, shall compile a list of all known Vermont statutory exemptions to the inspection and copying of public records under the public records act, 1 V.S.A. chapter 5, subchapter 3. Legislative council shall publish the list of exemptions compiled under this section as a statutory revision note to 1 V.S.A. § 317 and shall update the list as necessary.

Sec. 16. REPEAL

1 V.S.A. § 321 (public records legislative study committee) is repealed on January 15, 2015.

Sec. 17. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

(Committee Vote: 10-0-1)

H. 91

An act relating to the management of fish and wildlife

Rep. Webb of Shelburne, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds and declares:

(1) The protection, propagation, control, management, and conservation of the wildlife of Vermont are in the best interest of the public.

(2) Exposure of wildlife to domestic animals, as that term is defined in 6 V.S.A. § 1151, increases the risk that a disease or parasite, such as chronic wasting disease, is introduced into or spread to the wildlife of Vermont.

(3) To prevent the introduction or spread of a disease or parasite to the wildlife of Vermont, white-tailed deer and moose should not be entrapped in captive cervidae facilities.

(4) If a white-tailed deer or moose is entrapped in a facility that contains domestic animals, existing rules require the facility owner to consult with the department of fish and wildlife in order to determine the best method for removal of the entrapped white-tailed deer or moose.

(5) To preserve the health of the wildlife of Vermont, all owners of captive cervidae facilities should be required to remove entrapped white-tailed deer or moose, and such facilities should be required to take the necessary measures to prevent future entrapment of white-tailed deer or moose.

Sec. 2. 10 V.S.A. § 4081 is amended to read:

§ 4081. POLICY

(a) ~~It is the policy of the state that the~~ (1) As provided by Chapter II, § 67 of the Vermont Constitution, the fish and wildlife of Vermont are held in trust by the state for the benefit of the citizens of Vermont and shall not be reduced to private ownership. The state of Vermont, in its sovereign capacity as a trustee for the citizens of the state, shall have ownership, jurisdiction, and control of all of the fish and wildlife of Vermont.

(2) The commissioner of fish and wildlife shall manage and regulate the fish and wildlife of Vermont in accordance with the requirements of this part and the rules of the fish and wildlife board. The protection, propagation control, management, and conservation of fish, wildlife, and fur-bearing animals in this state ~~is~~ are in the interest of the public welfare~~, and that safeguarding of this valuable resource~~. The state, through the commissioner of fish and wildlife, shall safeguard the fish, wildlife, and fur-bearing animals of the state for the people of the state ~~requires~~, and the state shall fulfill this duty with a constant and continual vigilance.

(b) Notwithstanding the provisions of ~~section 2803 of Title~~ 3 V.S.A. § 2803, the fish and wildlife board shall be the state agency charged with carrying out the purposes of this subchapter.

(c) An abundant, healthy deer herd is a primary goal of fish and wildlife management. The use of a limited unit open season on antlerless deer shall be implemented only after a scientific game management study by the fish and wildlife department supports such a season.

(d) Annually, the department shall update a scientific management study of the state deer herd. The study shall consider data provided by department biologists and citizen testimony taken under subsection (f) of this section.

(e) Based on the results of the updated management study and citizen testimony, the board shall decide whether an antlerless deer hunting season is necessary and if so how many permits are to be issued. If the board determines that an antlerless season is necessary, it shall adopt a rule creating one and the department shall then administer an antlerless program.

(f) Annually, the department shall hold regional public hearings to receive testimony and data from concerned citizens about their knowledge and concerns about the deer herd. The board shall identify the regions by rule.

(g) If the board finds that an antlerless season is necessary to maintain the health and size of the herd, the department shall administer an antlerless deer program. Annually, the board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of $10.00 for residents and $25.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. If the number of landowners who apply exceeds the number of permits for that district, the department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to subdivisions (1) and (2) of this subsection shall be issued by the department for a $10.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a $25.00 fee.

Sec. 3. REPEAL OF DORMANT STATUTORY REQUIREMENTS FOR MANAGEMENT OF THE DEER HERD

(a) 10 V.S.A. §§ 4743 (relating to muzzle loader season), 4744 (relating to bow and arrow season), and 4753 (relating to annual deer limit), as suspended by Sec. 5(a) of No. 136 of the Acts of the 2003 Adj. Sess. (2004), § 5(a) and by Sec. 2 of No. 97 of the Acts of the 2007 Adj. Sess. (2008), shall be repealed July 1, 2011.

(b) Sec. 7(d) (repeal of transfer to the fish and wildlife board of management authority over deer herd) of No. 136 of the Acts of the 2003 Adj. Sess. (2004), as amended by No. 97 of the Acts of the 2007 Adj. Sess (2008), shall be repealed July 1, 2011.

Sec. 4. REPEAL OF TRANSFER OF REGULATORY AUTHORITY OVER CAPTIVE CERVIDAE FACILITY

Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) (transfer of regulatory oversight over captive cervidae facility and the white-tailed deer or moose entrapped within it to the agency of agriculture, food and markets) is repealed.

Sec. 5. TRANSITION

(a) For purposes of this section, "relevant captive cervidae facility" shall mean a captive cervidae facility subject to the requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) prior to repeal under Sec. 3 of this act.

(b) Upon repeal of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) under Sec. 4 of this act, the jurisdiction and regulatory authority over a relevant captive cervidae facility and the white-tailed deer and moose entrapped within it are transferred from the agency of agriculture, food and markets to the department of fish and wildlife.

(c) Upon transfer of jurisdiction and regulatory authority to the department of fish and wildlife under subsection (b) of this section, a relevant captive cervidae facility shall be regulated as a captive hunt facility under the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting as set forth in 10 V.S.A. App. § 19, except that:

(1) For purposes of review of an application for a permit submitted under subsection (d) of this section, demonstrated compliance by a relevant captive cervidae facility with the requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) or the agency of agriculture, food and markets' rules governing captive cervidae shall be deemed as substantial compliance with comparable provisions of the department of fish and wildlife rules governing the importation and possession of animals for taking by hunting.

(2) The wild cervidae entrapped at a relevant captive cervidae facility may remain at the facility, provided that:

(A) The white-tailed deer and moose entrapped at the facility shall be subject to hunt during an applicable open season or seasons established by the fish and wildlife board;

(B) The fish and wildlife board shall adopt by rule a process by which the number of white-tailed deer and moose entrapped within the relevant captive hunt facility is reduced to zero by taking, as that term is defined in 10 V.S.A. § 4001, over a five-year period from September 1, 2011. The rule adopted by the fish and wildlife board under this subdivision shall specify:

(i) The number and type of white-tailed deer or moose to be taken in any season set by the board for the relevant captive hunt facility, subject to the following:

(I) The number of white-tailed deer or moose authorized for taking should be reasonably equal in each of the five years from September 1, 2011, provided that all white-tailed deer or moose remaining at the facility in the fifth year shall be authorized for taking;

(II) In each year of the five-year period, the owner of the relevant captive cervidae facility shall present to the department of fish and wildlife for disease surveillance at least the number of white-tailed deer and moose authorized for taking by the fish and wildlife board under this subdivision (C)(2)(B)(i).

(ii) The process and protocol for a disease surveillance program at the relevant captive cervidae facility.

(C) the owner of the relevant captive cervidae facility may post his or her land according to 10 V.S.A. § 5201 and may restrict access to the facility for hunting; and

(D) no fee shall be charged by the relevant captive cervidae facility for the right to take white-tailed deer or moose during a hunt season established by the fish and wildlife board under this subsection.

(3) No person knowingly or intentionally shall allow wild cervidae at the relevant captive cervidae facility to escape or to be released from the facility.

(4) Failure of the relevant captive cervidae facility to meet the requirements of this section shall be a fish and game violation subject to enforcement under 10 V.S.A. chapter 109.

(d) By September 1, 2011, the owner of a relevant captive cervidae facility shall submit to the department of fish and wildlife an application for a permit for the possession of animals for the purpose of hunting.

(e) On or before January 15, 2012, and annually thereafter, the department of fish and wildlife shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding the status of the relevant captive cervidae facility's compliance with:

(1) the requirements of this section; and

(2) the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting.

(f) Prior to filing under 3 V.S.A. § 841 a final proposal of the rules required by subsection (c) of this section, the fish and wildlife board shall submit a copy of the proposed rules to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy. The house committee on fish, wildlife and water resources and the senate committee on natural resources and energy shall review the proposed rules for consistency with legislative intent. The house committee on fish, wildlife and water resources and the senate committee on natural resources shall recommend that the proposed rules be amended or shall recommend that the proposed rules be filed with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841. If the general assembly is not in session when the fish and wildlife board is prepared to file a final proposal of rules, the board may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy.

Sec. 6. 10 V.S.A. §§ 4519–4520a are added to read:

§ 4519. ASSURANCE OF DISCONTINUANCE

(a) As an alternative to judicial proceedings, the commissioner may accept an assurance of discontinuance of any violation of this part. An assurance of discontinuance may include, but need not be limited to:

(1) specific actions to be taken;

(2) abatement or mitigation schedules;

(3) payment of a civil penalty and the costs of investigation;

(4) payment of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved persons.

(b) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. An assurance of discontinuance shall be simultaneously filed with the attorney general and the civil division of the superior court of the county in which the alleged violation occurred or the civil division of the superior court of Washington County. An assurance of discontinuance may, by its terms, become an order of the court. Evidence of a violation of an assurance of discontinuance shall be prima facie proof of the violation.

(c) Any violation of an assurance of discontinuance shall constitute a separate and distinct offense of the underlying statute or rule and shall be subject to an administrative penalty under section 4520 of this title, in addition to any other applicable penalties.

§ 4520. ADMINISTRATIVE PENALTIES

(a) In addition to other penalties provided by law, the commissioner may assess administrative penalties, not to exceed $1,000.00, for each violation of this part.

(b) In determining the amount of the penalty to be assessed under this section, the commissioner may give consideration to one or more of the following:

(1) the degree of actual and potential impact on fish, game, public safety, or the environment resulting from the violation;

(2) the presence of mitigating or aggravating circumstances;

(3) whether the violator has been warned or found in violation of fish and game law in the past;

(4) the economic benefit gained by the violation;

(5) the deterrent effect of the penalty;

(6) the financial condition of the violator.

(c) Each violation may be a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed to be a separate and distinct offense. In no event shall the maximum amount of the penalty assessed under this section exceed $25,000.00.

(d) In addition to the administrative penalties authorized by this section, the commissioner may recover the costs of investigation, which shall be credited to a special fund and shall be available to the department to offset these costs.

(e) Any party aggrieved by a final decision of the commissioner under this section may appeal de novo to the civil division of the superior court of the county in which the violation occurred or the civil division of the superior court of Washington County within 30 days of the final decision of the commissioner.

(f) The commissioner may enforce a final administrative penalty by filing a civil collection action in the civil division of the superior court of any county.

(g) The commissioner may, subject to 3 V.S.A. chapter 25, suspend any license or permit issued pursuant to his or her authority under this part for

failure to pay a penalty under this section more than 60 days after the penalty was issued.

§ 4520a. NOTICE AND HEARING REQUIREMENTS

(a) The commissioner shall use the following procedures in assessing the penalty under section 4520 of this title: the attorney general or an alleged violator shall be given an opportunity for a hearing after reasonable notice; and the notice shall be served by personal service or by certified mail, return receipt requested. The notice shall include:

(1) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(2) a statement of the matter at issue, including reference to the particular statute allegedly violated and a factual description of the alleged violation;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the decision shall become final and the penalty imposed if no hearing is requested within 15 days of receipt of the notice. The notice shall specify the requirements which shall be met in order to avoid being deemed to have waived the right to a hearing or the manner of payment if the person elects to pay the penalty and waive a hearing.

(b) Any person who receives notification pursuant to this section shall be deemed to have waived the right to a hearing unless, within 15 days of the receipt of the notice, the person requests a hearing in writing. If the person waives the right to a hearing, the commissioner shall issue a final order finding the person in default and imposing the penalty. A copy of the final default order shall be sent to the violator by certified mail, return receipt requested.

(c) When an alleged violator requests a hearing in a timely fashion, the commissioner shall hold the hearing pursuant to 3 V.S.A. chapter 25.

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (policy for management of fish and wildlife), 3 (repeal of dormant deer herd management statutes) and 6 (department of fish and wildlife; assurance of discontinuance; administrative penalties) of this act shall take effect on July 1, 2011.

(b) Secs. 4 (repeal of transfer of regulatory authority over captive cervidae facility) and 5 (transition of regulatory authority over captive cervidae facility) of this act shall take effect September 1, 2011, except that Sec. 5(d) (application for possession of animals for purpose of hunting permit) shall take effect on July 1, 2011.

(Committee Vote: 7-2-0)

H. 99

An act relating to vital records

Rep. Devereux of Mount Holly, for the Committee on **Judiciary,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 102 is added to read:

CHAPTER 102. VITAL RECORDS GENERALLY

§ 5031. VITAL RECORDS; FORMS OF CERTIFICATES; APPLICABILITY

(a) Certificates of birth, death, civil marriage, civil union, divorce, dissolution, and reports of fetal death and induced termination of pregnancy shall be in a form prescribed by the commissioner of health and distributed by the department of health.

(b) Beginning January 1, 2011, all originals and certified copies of certificates of birth, death, civil marriage, civil union, divorce, and dissolution shall be issued on unique paper with antifraud features approved by the commissioner of health and available from the department of health.

(c) The provisions of this part apply to all certificates of birth, death, civil marriage, civil union, divorce, and dissolution and reports of fetal death and induced termination of pregnancy previously received by the department and in the custody of the commissioner or any other custodian of vital records as authorized by the commissioner.

(d) The secretary of human services may adopt rules pursuant to chapter 25 of Title 3 as necessary to enable the department of health to conduct vital records administration.

§ 5032. DEFINITIONS

As used in this part, the following words and phrases shall have the following meanings unless the context requires otherwise:

(1) "Attending physician" means the physician who has completed medical training and residency and is responsible for coordinating a patient's care, including supervising the care provided by interns, residents, or medical students, and who has final responsibility legally and otherwise for that patient's care.

(2) "Commissioner" means the commissioner of health.

(3) "Dead body" means a human body or parts of a human body, the condition of which reasonably indicates that death has occurred.

(4) "Department" means the department of health.

(5) "Fetal death" means death prior to the complete expulsion or extraction from the mother of a product of conception, irrespective of the duration of pregnancy, and which is not an induced termination of pregnancy.

(6) "File" means the presentation and acceptance of a vital record or report provided for in this part for registration by the office of vital statistics.

(7) "Final disposition" means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.

(8) "Form" means the appearance, content, layout, size, software, security devices, and all other features for the reporting of vital records to the office of vital statistics. A form may be a piece of paper, a computer interface or screen, a data file, or other medium approved by the commissioner for use in collecting and transmitting vital records.

(9) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live-born infant and which does not result in a live birth. The term does not include management of prolonged retention of products of conception following fetal death.

(10) "Institution" means any establishment, public or private, which provides inpatient or outpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care, or to which persons are committed by law.

(11) "Live birth" means the complete expulsion or extraction from the mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(12) "Office of vital statistics" means an office of the department of health responsible for vital records and the system of vital statistics.

(13) "Registration" means the process by which vital records are completed, filed, and incorporated into the official records of the office of vital statistics and made available to the registrant, family, or other requesting party.

(14) "State registrar" refers to the supervisor of the office of vital statistics.

(15) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records; the collection of other reports required by this part; and activities related thereto, including the tabulation, analysis, publication, and dissemination of vital statistics.

(16) "Transmit" means the collection and delivery of vital records by required reporting sources to the office of vital statistics. Methods may include paper, secure fax, and secure electronic data exchange.

(17) "Vital records" means certificates or reports of birth, death, civil marriage, civil union, divorce, dissolution, fetal death, induced termination of pregnancy, and data related thereto.

(18) "Vital statistics" means the analyses of data derived from certificates and reports of birth, death, civil marriage, civil union, divorce, dissolution, fetal death, and induced termination of pregnancy and from related documents.

§ 5033. CONFIDENTIALITY OF VITAL RECORDS

(a) Certified copies of vital records shall be made available only as provided in section 5040 of this title.

(b) Informational copies of vital records shall be made available only as provided in section 5041 of this title.

(c) Vital records issued and managed according to the requirements of this chapter may include confidential information. Confidential information included in vital records subject to the requirements of this chapter is exempt from inspection and copying under 1 V.S.A. chapter 5, subchapter 3. The department may use the confidential information from vital records for public health purposes. The department may publish reports and share such confidential information publicly only in summary, statistical, or other form in which particular individuals are not identified. Confidential information from vital records may be shared for research purposes consistent with the Health Insurance Portability and Accountability Act of 1996 and with the agency of human services' institutional review board policies and practices. The department may share confidential information from vital records with federal agencies consistent with federal regulations and contractual obligations.

(d) The department may use and disclose confidential information from vital records as is necessary in public health emergencies and may share information from vital records with other municipal, state, and federal government agencies for fraud investigations and other law enforcement purposes.

(e) Nothing in this section shall be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the birth certificate unless specifically authorized by the state registrar for statistical or research purposes, consistent with subsection (c) of this section. Such data shall not be subject to subpoena or court order and shall not be admissible before any court, tribunal, or other judicial body.

(f) Nothing in this section shall be construed to permit disclosure of information contained in the "Information for Statistical Purposes Only" section of the certificate of civil marriage or civil union or the certificate of divorce or dissolution to any party other than the originating couple listed on the certificate unless specifically authorized by the state registrar for statistical or research purposes, consistent with subsection (c) of this section. Such data shall not be subject to subpoena or court order and shall not be admissible before any court, tribunal, or other judicial body.

§ 5034. OFFICE OF VITAL STATISTICS AND STATEWIDE SYSTEM OF VITAL STATISTICS

(a) There is hereby established in the department of health an office of vital statistics which shall install, maintain, and operate the only system of vital statistics throughout this state.

(b) The commissioner shall:

(1) designate an employee of the department to serve as the state registrar, who shall be the supervisor of the office of vital statistics;

(2) oversee the administration of the system of vital statistics;

(3) provide for the preservation and security of the official records of the office of vital statistics;

(4) develop a statewide system of vital statistics and promote uniformity of policy and procedures pertaining to vital statistics throughout the state;

(5) prescribe, furnish, and distribute such forms for vital records as are required by this part or prescribe such other means for transmission of data as will accomplish the purpose of complete and accurate reporting and registration;

(6) implement audit and quality control procedures as necessary to ensure compliance with filing and reporting of vital records.

(c) The commissioner may establish or designate offices, subject to the requirements of section 5043 of this title, in the state to aid in the efficient administration of the system of vital statistics, including the Vermont state

archives and records administration; department of health district offices; and city, town, and county clerk offices.

(d) The department shall provide such forms and reports as needed to perform the functions and duties necessary for the administration of the system of vital statistics.

§ 5035. CONTENT OF CERTIFICATES AND REPORTS

(a) In order to promote and maintain nationwide uniformity in the system of vital statistics, the forms of certificates and reports prescribed by the commissioner may include as a minimum the items recommended by the federal agency responsible for national vital statistics.

(b) Each certificate, report, and other document required by this part shall be prepared and filed in the format prescribed by the commissioner.

(c) All vital records shall contain the date of registration.

(d) Information required in certificates, forms, records, or reports may be filed, verified, registered, and stored by photographic, electronic, or other means as determined by the commissioner.

§ 5036. DUTIES OF TOWN AND COUNTY CLERKS

(a) Town clerks annually may compile and publish in the annual town report a count of the total number of births, deaths, and civil marriages that occurred for residents of the town during the preceding year.

(b) County clerks may compile and publish the same as a town clerk on behalf of an unorganized town or gore and may perform the same duties and will be subject to the same penalties as town clerks with respect to licenses, certificates, records, and returns of parties.

(c) Town clerks shall receive, number, and file for record the certificates of civil marriages and burial-transit and removal permits and shall preserve such documents in a manner approved by the department.

(d) Town clerks shall file for record and index in volumes all civil marriages and burial-transit and removal permits in a manner prescribed by the state archivist. Each volume or series shall contain an alphabetical index. Civil marriage certificates shall be filed for record in one volume or series and burial-transit and removal permits in another. All volumes shall be maintained in the town clerk's office as permanent records.

(e) The member of a couple that moves into and becomes a permanent resident of this state may cause to be recognized in the office of the clerk of the town where he or she resides or, if he or she resides in an unorganized town or gore, in the office of the clerk of the county wherein he or she

resides a certificate of his or her civil marriage or civil union embracing the statistics required by law. Such record shall not be returned to the office of vital statistics.

§ 5037. PRESERVATION OF VITAL RECORDS

To preserve vital records, the state registrar is authorized to prepare typewritten, photographic, electronic, or other reproductions of certificates or reports in the office of vital statistics. Such reproductions, when verified and approved by the state registrar, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of consistent with department record retention policies.

§ 5038. PENALTIES

Any party with responsibility for transmitting an original or copy of a report or other information required by this part, including a certificate, certified copy, worksheet, preliminary report, or other supporting documentation required by law, shall be fined not more than $500.00 for each occurrence of knowing failure to provide said documents as required by statute or by rule.

§ 5039. VITAL RECORDS COPIES

Upon payment of a $15.00 fee, the state registrar and other designated custodians of vital records shall provide certified copies of vital records or shall ascertain and verify what the vital records available to the state registrar show, except that prior to providing a copy of a birth certificate, the word "illegitimate" shall be excluded from the copy and any verification. The fee for the search of the vital records shall be $5.00, which shall be credited toward the fee for the first certified copy based upon the search.

§ 5040. CERTIFIED COPIES

(a) The state registrar and other custodians of vital records designated by the state registrar to issue certified copies of birth and death records shall, upon receipt of an application, issue a certified copy of a vital record in his or her custody to the registrant or the registrant's spouse, children, parents, siblings, or guardian or such person's respective legal representative. The state registrar and other custodians may also issue a certified copy of a vital record to a specific individual pursuant to a court order finding that the record is needed for the determination or protection of an individual's right.

(1)(A) An application for a certified copy of a birth or death certificate shall contain from the requestor the following information:

(i) the requestor's full legal name;

(ii) the requestor's full date of birth;

(iii) the name of requestor's organization, if any;

(iv) the requestor's mailing address, including city or town, state, and country;

(v) the requestor's residence address, if different from the mailing address, including city or town, state, and country;

(vi) the requestor's telephone number, if any;

(vii) the purpose of the request;

(viii) the type of record requested;

(ix) the first and last names of the person listed on the requested certificate;

(x) the requestor's relationship to the person listed on the certificate;

(xi) the year of the vital event; and

(xii) the requestor's signature.

(B) A certified copy shall not be provided if the requesting party cannot or will not provide this completed application.

(2) An application for a certified copy of a birth or death certificate shall include identification documents to prove that the applicant is eligible to receive a certified copy. A valid government-issued identification document issued by an appropriate issuing authority shall be provided at the time of application.

(A) Specific forms of government-issued identification that are acceptable include:

(i) a valid photographic operator's license or enhanced driver's license issued by Vermont or another state of the United States;

(ii) a valid photographic nondriver identification card issued by Vermont or another state of the United States;

(iii) a valid driver's license or identification card issued by a possession or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia;

(iv) a valid tribal identification card containing the bearer's signature;

(v) a valid United States armed services identification card containing the bearer's signature;

(vi) a valid passport issued by the United States or a foreign jurisdiction;

(vii) a valid visa, if it is contained within a passport and the bearer's signature is on the passport rather than the visa;

(viii) a valid Resident Alien Card or Permanent Resident Card (Form I-551);

(ix) a valid Employment Authorization Card (Form I-766 or Form I-688A);

(x) a valid Temporary Resident Card (Form I-688).

(B) The following shall not be accepted as valid government-issued identification:

(i) a Matricula Consular ID Card;

(ii) a Mexican Voter Registration Card "Credencial Para Votar";

(iii) an Alien Registration Receipt Card Form I-151 (replaced by the I-551);

(iv) a USA B1/B2 Visa/BCC (Form DSP-150);

(v) a Nonresident Border Crosser Card (Form I-586);

(vi) a Nonresident Alien Mexican Border Crosser Card (Form I-186);

(vii) a Nonresident Alien Canadian Border Crosser Card (Form I-185);

(viii) a U.S. Citizen Identification Card (Form I-197);

(ix) a school identification card;

(x) a tribal identification card that lacks the bearer's signature;

(xi) a U.S. military identification card that lacks the bearer's signature;

(xii) a driver's license issued by a foreign jurisdiction;

(xiii) an international driver's license.

(C) If a requestor does not have an acceptable or valid government-issued identification document, the state registrar may request additional evidence of the requestor's identity, as appropriate. The state

registrar may also request additional evidence of the requester's eligibility to receive the document.

(3) An application that appears to contain false or misleading information or that appears to include falsified, modified, or stolen identification documents shall be denied. A record of the fraudulent application shall be maintained in a fraud file and the state registrar shall refer the matter to the appropriate state and federal authorities.

(4) All application information shall be entered into a central tracking system and checked for any prohibitions on release of the record generally or release to the requesting party specifically.

(5) All copies of valid identification documents submitted pursuant to this subsection shall be legible and contain an expiration date that has not passed, a photo, an address, a signature, and a unique number or bar code, such as a driver's license number or passport number, assigned to the person. If the photo is not clear on the valid government-issued identification document but all other information is legible, the identification document may be accepted, but the state registrar may request additional copies or information. All copies of identification documents shall be reviewed for evidence of tampering, expiration date, address, and a comparison of the signature with the signature on the application. Notarized statements shall not be accepted in lieu of a valid government-issued identification document.

(b) The state registrar and other custodians of vital records designated by the state registrar to issue certified copies of civil marriage, civil union, divorce, and dissolution records shall, upon receipt of a valid application and identification pursuant to subsection (a) of this section, issue a certified copy in his or her custody to the applicant.

(c) All forms and procedures used in the issuance of certified copies of vital records in the state shall be uniform and provided or approved by the commissioner. All certified copies issued shall have security features that deter the document from being altered, counterfeited, duplicated, or simulated without ready detection.

(d) Each certified copy issued under this subsection shall show the date of registration, if available, and, when applicable, shall be marked "Amended" and show the effective date of the amendment. Certified copies issued from records marked "Delayed" shall be similarly marked and shall include the date of registration and a description of the evidence used to establish the delayed certificate. Any certified copy issued of a "Certificate of Foreign Birth" shall comply with the provisions of section 5106 of this title, show the actual place

of birth, and state that the certificate is not proof of United States citizenship for the adoptive child.

(e) Upon receipt of a written request on a form provided by the department, the state registrar may issue a certified copy of a death certificate to:

(1) the Social Security Administration;

(2) the Veterans' Administration;

(3) the deceased's insurance carrier, if such carrier provides benefits to the decedent's survivors or beneficiaries; and

(4) a funeral home or crematorium on behalf of the family of the decedent for whom burial or cremation services are rendered.

(f) A certified copy of a vital record, issued in accordance with subsections (a), (b), (c), (d), and (e) of this section shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein.

(g) If the state registrar receives information that a certificate may have been registered through fraud or misrepresentation, the state registrar shall withhold issuance of any copy of that certificate pending an investigation. If the state registrar is unable to verify the accuracy of the certificate, the state registrar shall remove the certificate from the file and notify the individual requesting a copy of the certificate that the record cannot be certified. The certificate and evidence shall be retained by the department but shall not be subject to inspection or copying except upon order of the probate division of the superior court or by the state registrar for purposes of administering the vital statistics program.

(h) No person shall prepare or issue any certificate which purports to be a certified copy of a vital record except as authorized in this section.

§ 5041. INFORMATIONAL COPIES

(a) The state registrar and other custodians of vital records authorized by the state registrar to issue informational copies of birth and death records shall, upon receipt of an application, issue an informational copy of a vital record in his or her custody to the requesting party.

(1)(A) An application for an informational copy of a birth or death certificate shall contain from the requestor the following information:

(i) the requestor's full legal name;

(ii) the requestor's full date of birth;

(iii) the name of the requestor's organization, if any;

(iv) the requestor's mailing address, including city or town, state, and country;

(v) the requestor's residence address, if different from the mailing address, including city or town, state, and country;

(vi) the requestor's telephone number, if any;

(vii) the purpose of the request;

(viii) the type of record requested;

(ix) the first and last names of the person listed on the requested certificate;

(x) the requestor's relationship to the person listed on the certificate;

(xi) the year of the vital event; and

(xii) the requestor's signature.

(B) An informational copy shall not be provided if the requesting party cannot or will not provide this completed application.

(2) All application information shall be entered into a central tracking system maintained by the department and shall be checked for any prohibitions on release of the record generally or release to the requesting party specifically.

(b) The state registrar and other custodians of vital records designated by the state registrar to issue informational copies of civil marriage, civil union, divorce, and dissolution records shall, upon receipt of an application, issue an informational copy in his or her custody to the applicant.

(c) All forms and procedures used in the issuance of informational copies of vital records in the state shall be uniform and provided or approved by the commissioner. An informational copy shall not be in the same format as that of a certified copy and will be in a generic report format that cannot be used for legal purposes.

(d) Each informational copy issued shall show the date of registration and, when applicable, shall be marked "Amended" and show the effective date of the amendment. Informational copies issued from records marked "Delayed" shall be similarly marked and shall include a description of the evidence used to establish the delayed certificate. Any informational copy issued of a "Certificate of Foreign Birth" shall comply with the provisions of section 5106 of this title, show the actual place of birth, and state that the certificate is not proof of United States citizenship for the adoptive child.

(e)(1) An informational copy of a vital record issued in accordance with subsections (a) through (d) of this section shall not be considered evidentiary value of a certificate or record or prima facie evidence of the facts stated therein.

(2) Notwithstanding subdivision (1) of this subsection, an informational copy of a vital record may be recorded in the land records of a municipality to establish the date of birth or death of a person with an ownership interest in property. Certified copies of vital records shall not be recorded in the land records of a municipality. A reproduction of a certified copy, such as an informational copy of a vital record or a photocopy of a certified copy of a vital record, may be recorded in the land records provided that the reproduction is not printed on unique paper with antifraud features.

(f) If the state registrar receives information that a certificate may have been registered through fraud or misrepresentation, the state registrar shall withhold issuance of any copy of that certificate pending an investigation. If the state registrar is unable to verify the accuracy of the certificate, the state registrar shall remove the certificate from the file and shall notify the individual requesting a copy of the certificate that the record cannot be certified. The certificate and evidence shall be retained by the department but shall not be subject to inspection or copying except upon order of the probate division of the superior court or by the state registrar for purposes of administering the vital statistics program. The state registrar shall refer the matter to the appropriate state and federal authorities.

(g) No person shall prepare or issue any certificate which purports to be an informational copy of a vital record except as authorized in this section.

(h) The fee for an informational copy shall be the same as the search fee set forth in section 5039 of this title.

§ 5042. RECORDS OF OUT-OF-STATE EVENTS

(a) Copies of vital records for events occurring outside the state and filed with the state registrar or another custodian of vital records authorized by the state registrar to receive, store, and issue copies shall not be copied or certified.

(b) Information from vital records for events occurring outside the state and recorded with the state registrar or other designated custodian of vital records may be utilized only for public health and vital statistical purposes, fraud investigations, and birth and death matching or for ensuring right to title of real property in Vermont.

§ 5043. SAFES; VAULTS

(a) The commissioner shall establish the physical requirements and security standards that must be met for storage of vital records documents and supplies. The requirements and standards shall be based on best practices issued by state and federal law enforcement and public health organizations.

(b) At a minimum, the state registrar and other custodians of vital records designated by the state registrar to issue copies shall utilize a fireproof safe or vault to protect any confidential information and any materials that could be utilized to create a vital record.

(c) The state registrar may conduct an audit of any site storing and issuing vital records. Any site that does not pass the audit shall not provide storage and issuance services until the site passes a new audit. The state registrar shall offer to conduct a new audit within 30 days of issuing the previous deficient audit result.

§ 5044. PENALTIES

(a) A fine of not more than $10,000.00 or imprisonment of not more than five years or both shall be imposed on:

(1) any person who knowingly makes any false statement in a certificate, record, or report required by this part or in an application for an amendment thereto or in an application for a certified copy of a vital record or who knowingly supplies false information intending that such information be used in the preparation of any such report, record, or certificate or amendment thereto; or

(2) any person who, without lawful authority and with the intent to deceive, makes, counterfeits, alters, amends, or mutilates any certificate, record, or report required by this part or a certified copy of such certificate, record, or report; or

(3) any person who knowingly obtains, possesses, uses, sells, or furnishes or who attempts to obtain, possess, use, sell, or furnish to another for any purpose of deception any certificate, record, or report required by this part or certified copy thereof so made, counterfeited, altered, amended, or mutilated or which is false in whole or in part or which relates to the birth of another person, whether living or deceased; or

(4) any employee of the department or any office designated under this part who knowingly furnishes or processes a certificate of birth or death or a certified copy of a certificate of birth or death with the knowledge or intention that it may be used for the purposes of deception; or

(5) any person who without lawful authority possesses any certificate, record, or report required by this part or a copy or certified copy of such

certificate, record, or report knowing the same to have been stolen or otherwise unlawfully obtained.

(b) A fine of not more than $1,000.00 or imprisonment of not more than one year or both shall be imposed on:

(1) any person who knowingly refuses to provide information required by this part or rules adopted to carry out its purposes; or

(2) any person who knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in this part; or

(3) any person who knowingly neglects or violates any of the provisions of this part or refuses to perform any of the duties imposed upon him or her by this part.

(c) The penalties provided in this section are in addition to any other penalties that may be authorized by law.

§ 5045. FRAUD FILE

(a) The department shall maintain a fraud file and check the names of parties requesting certified and informational copies of vital records and registrants against the file for any matches.

(b) In the event that a check of the fraud file identifies a match, the department shall delay issuance of the document and refer the case for investigation to the department of public safety. The original request for a certified or informational copy or registration of a vital event shall be completed upon clearance by an authorized representative of the department of public safety that the request is legitimate and not related to any fraudulent activity.

(c) The department shall incorporate into the fraud file any known or active fraudulent activities related to the creation, access, or copying of vital records reported by authorized representatives of other states, territories, and federal agencies.

§ 5046. BIRTH AND DEATH MATCHING

To protect the integrity of vital records and to prevent the fraudulent use of birth certificates of deceased persons, the department shall match birth and death certificates. Certified and informational copies of birth certificates of people who have died shall be marked "Deceased."

§ 5047. MISSING OR KIDNAPPED

(a) The department shall maintain and update the system of vital statistics for Vermont residents listed as missing or kidnapped. The list shall be provided by the department of public safety to the department of health on an agreed-upon schedule.

(b) The offices granted authority by the state registrar to issue certified or informational copies of birth certificates shall delay issuance of a copy of a birth certificate for a Vermont resident listed as missing or kidnapped and shall refer the case to the department of public safety for investigation. The request for a copy of the birth certificate shall be completed upon clearance by an authorized representative of the department of public safety that the requestor is not involved in the disappearance of the party listed on the birth certificate.

§ 5048. SEVERABILITY

If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of the part are declared to be severable.

§ 5049. CONSTRUCTION

The provisions of this part shall be applicable with respect to both past and future orders, judgments, decrees, and instruments relating to vital records.

§ 5050. APPEALS

Any person aggrieved by a decision by the state registrar or designated vital records custodian to withhold issuance of a certified copy of a vital record under this chapter may apply to the probate division of the superior court in the county in which the complainant resides or has his or her personal place of business, or in which the public records are situated, or in the probate division of the superior court of Washington County, provided that a decision of the state registrar or a designated vital records custodian to withhold issuance of a certified copy of a vital record under this chapter shall not be subject to expedited review under 1 V.S.A § 319. A decision of the state registrar or a designated vital records custodian to withhold issuance of an informational copy of a vital record shall be subject to expedited review under 1 V.S.A. § 319.

Sec. 2. 18 V.S.A. chapter 104 is added to read:

CHAPTER 104. BIRTH RECORDS

§ 5101. BIRTH REGISTRATION

(a) A certificate of birth for each live birth which occurs in this state shall be filed with the department within five days after such birth and shall be registered if it has been completed and filed in accordance with this chapter.

(b) At the time of birth of a child, each parent shall furnish the following information on a form or in a manner prescribed by the commissioner: the parent's name, address, and Social Security number and the name and date of birth of the child. The department may request additional information as needed to fulfill federal and state requirements.

(c) When a birth occurs in an institution or en route thereto, the person in charge of the institution or his or her designee shall obtain the personal data, prepare the certificate, certify that the child was born alive at the place and time and on the date stated either by signature or by an approved electronic process, and file the certificate as directed in this part. The physician or other health care provider in attendance shall provide the medical information required by the certificate within 72 hours after the birth.

(d) When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) the physician or midwife in attendance at or immediately after the birth;

(2) a parent of the child present at the birth;

(3) any other person in attendance at or immediately after the birth; or

(4) the person in charge of the premises where the birth occurred.

(e) When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where the child is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state, but the certificate shall show the actual place of birth insofar as it can be determined.

(f) For the purposes of birth registration, the mother is deemed to be the woman who gives birth to the child unless otherwise provided by state law or determined by the probate division of the superior court prior to the filing of the birth certificate.

(g) The name of the father shall be included on the birth certificate of the child of unmarried parents only if the father and mother have signed a voluntary acknowledgment of parentage or a court or administrative agency of competent jurisdiction has issued an adjudication of parentage.

(h) In any case in which paternity of a child is determined by the family division of the superior court or other court or administrative agency of competent jurisdiction, the name of the father and the surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court or administrative agency.

(i) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

(j) Either of the parents of the child or, in the absence of both of the parents, another informant shall verify the accuracy of the personal data to be entered on the certificate in time to permit the registration of the certificate within the five days prescribed in this section.

(k) Certificates of birth filed after five days but within one year from the date of birth shall be registered on the standard form of live birth certificate in the manner prescribed in this section. Such certificates shall not be marked "Delayed." The state registrar may require additional evidence in support of the facts of birth before issuance of a birth certificate pursuant to this subsection.

(l) The state registrar shall not register any certificate of birth which is incomplete or for which the state registrar has reason to believe the information provided is not accurate. If the state registrar refuses to register a certificate of birth under this section, the person submitting the certificate for registration shall be referred to the probate division of the superior court for proceedings pursuant to section 5104 of this title.

§ 5102. INFANTS OF UNKNOWN PARENTAGE; FOUNDLING REGISTRATION

(a) Whoever assumes the custody of a live-born infant of unknown parentage shall report to the department on a form and in a manner prescribed by the commissioner within five days of assuming custody the following information:

(1) the date, city or town, and county of finding;

(2) the sex and approximate birth date of the child based on consultation with a physician;

(3) the name and address of the custodian or other person or institution with whom the child has been placed for care;

(4) the name given to the child by the custodian of the child; and

(5) other data as required by the state registrar.

(b) The place where the child was found shall be entered as the place of birth.

(c) A report registered under this section shall constitute the certificate of birth for the child.

(d) If the child is identified and a certificate of birth is found or obtained, the report registered under this section shall be placed in a special file and shall not be subject to inspection except upon court order or as provided by the department by rule. All copies of the report in the custody of any other custodian of vital records in this state shall be forwarded to the state registrar and sealed from inspection, as he or she shall direct. Any duplicate electronic records created as a result of the foundling registration shall be removed and destroyed.

§ 5103. DELAYED REGISTRATION OF BIRTH

(a) When a certificate of birth of a person born in this state has not been filed within one year following the birth event, the person's parent or legal guardian or the person, if over the age of 18, may file with the department an application for a delayed certificate of birth. The application shall contain all of the information required for a certificate of birth pursuant to section 5101 of this title, reasons for the delay in filing, and evidence substantiating the facts of birth.

(b) A previously unreported birth shall be registered on a delayed certificate of birth form with the word "Delayed" at the top and show the date of registration. The delayed certificate shall contain a summary of the evidence submitted in support of the delayed registration.

(c) No delayed certificate of birth shall be registered for a deceased person.

(d) When an applicant does not submit the minimum documentation for delayed registration or when the state registrar has cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not register the delayed certificate of birth and shall advise the applicant of the reasons for this action and shall further advise the applicant of his or her right to seek an order pursuant to section 5104 of this title from the probate division of the superior court for the district in which the birth occurred. The state registrar shall refer the matter to the appropriate state and federal authorities.

§ 5104. JUDICIAL PROCEDURE TO ESTABLISH FACTS OF BIRTH

(a) If the state registrar does not register a certificate of birth pursuant to section 5101 of this title or a delayed certificate of birth pursuant to section 5103 of this title, a petition signed and sworn to by the petitioner may be filed with the probate division of the superior court for the district in which the birth occurred for an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.

(b) A petition filed pursuant to subsection (a) of this section shall be made on a form prescribed by the commissioner and shall include sufficient evidence of the following:

(1) that the person for whom a certificate of birth or delayed certificate of birth is sought was born in this state;

(2) that no certificate of birth or delayed certificate of birth of such person can be found in the department or in the office of any local, regional, or state custodian of birth certificates;

(3) that diligent efforts by the petitioner have failed to obtain the evidence required in accordance with the statutes and rules required for a certificate of birth or delayed certificate of birth;

(4) that the state registrar has not registered a certificate of birth or delayed certificate of birth for the individual pursuant to section 5101 or 5103 of this title; and

(5) such other evidence as the court may require to prove the facts of the birth necessary for completion of a certificate of birth or delayed certificate of birth.

(c) The petition shall be accompanied by a statement of the state registrar made in accordance with section 5101 or 5103 of this title, as applicable, and all of the documentary evidence submitted to the state registrar in support of such registration.

(d) The court shall fix a time and place for hearing the petition and shall give the department 30 days' notice of such hearing. The department may appear and participate as a party in the proceeding.

(e) If the court finds from the evidence presented that the person for whom a certificate of birth or delayed certificate of birth is sought was born in this state, it shall make findings as to the place and date of birth, parentage, and such other findings as may be required and shall issue an order to establish a certificate of birth or delayed certificate of birth. This order shall include the birth date to be registered, a description of the evidence presented, and the date of the court's action.

(f) If the court finds that it appears the petitioner presented false or misleading evidence or evidence that appears to include falsified, modified, or stolen identification documents, the petition shall be denied and the department shall refer the matter to the appropriate state and federal authorities.

§ 5105. REPORT OF ADOPTION

(a) For each adoption decreed by the probate division of a superior court in this state, the court shall prepare and register a report of adoption on a form prescribed and furnished by the commissioner.

(b) The report of adoption shall:

(1) include such facts as are necessary to locate and identify the certificate of birth of the person adopted or, in the case of a person who was born in a foreign country, evidence from sources determined to be reliable by the court as to the date and place of birth of such person;

(2) provide information necessary to establish a new certificate of birth of the person adopted;

(3) identify any previous orders of adoption relative to the person;

(4) include the file number of the decree of adoption and the date on which the decree became final; and

(5) be certified by the clerk of the court.

(c) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption. An adoption agency or any person having knowledge of the facts shall supply the court with such additional information as may be necessary to complete the report of adoption, as required by the court.

(d) Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof which shall include such facts as are necessary to identify the original report of adoption and the facts amended in the adoption decree as shall be necessary to properly amend the birth record. The state registrar shall maintain the confidentiality of the adoption records and reports received from the court as required by law.

(e) Not later than the tenth day of each calendar month, the clerk of the court shall forward to the state registrar reports of adoption, reports of annulment of adoption, and amendments of decrees of adoption which were entered in the preceding month. The state registrar shall maintain the confidentiality of the adoption records and reports received from the court as required by law.

(f) Upon receipt of a report of adoption, report of annulment of adoption, or amendment of a decree of adoption for a person born outside this state, the state registrar shall forward such report to the state registrar in the state of birth.

(g) If the birth occurred in a foreign country and the child was not a citizen of the United States at the time of birth, the state registrar shall prepare a "Certificate of Foreign Birth." If the child was born in Canada, the state registrar shall also send a copy of the report of adoption, report of annulment of adoption, or amendment of a decree of adoption to the appropriate registration authority in that country. If the child was born in a foreign country but was a citizen of the United States at the time of birth, the state registrar shall not prepare a "Certificate of Foreign Birth" and shall notify the adoptive parents of the procedures for obtaining a revised birth certificate for their child through the United States Department of State.

§ 5106. CERTIFICATES OF BIRTH FOLLOWING ADOPTION, COURT DETERMINATION OF PATERNITY, AND PATERNITY ACKNOWLEDGMENT

(a) The state registrar shall establish a new certificate of birth for a person born in this state when:

(1) he or she receives a report of adoption, as provided in section 5105 of this title;

(2) he or she receives from the probate division of the superior court an order to issue a new birth certificate establishing the paternity of such person; or

(3) he or she receives a voluntary acknowledgment of paternity form and both parents request that the surname be changed from that shown on the original certificate.

(b) When a new certificate of birth is established following an adoption, it shall show the actual city or town, county, and date of birth, and the adoptive parents as the parents. The new birth certificate shall not contain a statement as to whether the adopted person was illegitimate and shall not contain any content or statement that would distinguish it from any other original certificate of birth.

(c) The new birth certificate shall be substituted for the original certificate of birth in the office of vital statistics and at local, regional, and state facilities, and the original certificate of birth and the evidence of adoption, court determination of paternity, or paternity acknowledgment shall not be subject to inspection until 99 years after the adoptee's date of birth or upon order of the

probate division of the superior court for the district in which the birth occurred or as otherwise provided by Vermont law.

(d) Upon receipt of a report of an amended decree of adoption pursuant to section 5105 of this title, the certificate of birth shall be amended.

(e) Upon receipt of a report or decree of annulment of adoption pursuant to section 5105 of this title, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of the probate division of the superior court or as otherwise provided by Vermont law.

(f) If no certificate of birth is on file for a person for whom a new birth certificate is to be established under this section and the date and place of birth have not been determined in the adoption or paternity proceedings, a delayed certificate of birth shall be filed with the state registrar before a new certificate of birth is established. The new birth certificate shall be prepared on the delayed birth certificate form.

(g) When a new certificate of birth is established by the state registrar, all copies of the original certificate of birth in the custody of any other custodian of vital records in this state shall be sealed from inspection or forwarded to the state registrar, as he or she shall direct.

(h) Unless specified in an order of adoption issued by the probate division of the superior court, the state registrar shall not establish a new birth certificate if he or she receives, accompanying the record of adoption, a written request that a new certificate not be established from either:

(1) the adopted person, if 14 years or older; or

(2) the adoptive parent or parents, if the adopted person is under 14 years of age.

(i) The state registrar shall, upon request, prepare and register a certificate in this state for a person born in a foreign country who is not a citizen of the United States and who was adopted through a court of competent jurisdiction or through the birth country's government office with legal authority to issue adoption decrees. The certificate shall be established upon receipt of a report of adoption from the court or government office decreeing the adoption, proof of the date and place of the child's birth, and a request from the court or government office, the adopting parents, or the adopted person if 14 years of age or over that such a certificate be prepared. Such certificate shall be labeled "Certificate of Foreign Birth" and shall show the actual country of birth. A statement shall also be included on the certificate indicating that it is not evidence of United States citizenship for the child for whom it is issued. After

registration of the birth certificate in the new name of the adopted person, the state registrar shall seal and file the report of adoption and any associated records and documents, which shall not be subject to inspection except upon order of a court in this state or as otherwise provided by Vermont law.

(j) When the state registrar receives a report of adoption for a person born in another state, he or she shall forward a certified copy of the court order of adoption and a certified copy of the report of adoption to the state registrar in the state of birth, with a request that a new birth certificate be established under the laws of that state.

(k) Upon request by a person who was listed as a parent on an adoptee's original birth certificate and who furnishes appropriate proof of the person's identity, the state registrar shall give the person an informational copy of the original birth certificate.

§ 5107. CORRECTIONS

(a) For each birth which occurs in this state, within three months of registration of the birth, except for that of a child known to have died or to have been surrendered for adoption, the state registrar shall send a notice of birth registration to the parents of the child. Such notice shall contain the pertinent facts, including the child's full name, the date and place of birth, and the names of the parents, along with instructions and a form on which to apply for corrections or additions.

(b) Within six months after the date of registration of the birth certificate, correction of obvious errors, of transpositions of letters in words of common knowledge, or of omissions and addition of the father to the birth certificate pursuant to a voluntary acknowledgment of parentage may be made by the state registrar upon his or her own observation. The state registrar may make corrections to or complete items which are not obvious errors upon written request of the parent or guardian, the hospital, the certifying attendant, or the town clerk in the town of occurrence or the town of residence on a form provided by the state registrar. The state registrar may correct or complete the certificate accordingly and shall certify thereon that such correction or completion was made pursuant to this section, with the date thereof.

(c) The state registrar shall destroy any current version of the corrected or completed birth certificate maintained at the department and at local, regional, and state facilities and replace it with the corrected or completed version.

(d) The state registrar may refuse an application for correction or completion, in which case the applicant may petition the probate division of the superior court for the district in which the birth occurred for such correction or completion.

§ 5108. AMENDMENTS

(a) Except as otherwise provided in subsection (b) of this section, after six months from the date of registration of the birth, the birth certificate of a person born in this state may be amended only by the decree of the probate division of the superior court for the district in which the birth occurred. A petition for such amendment may be brought by the person, the person's parent or guardian, the hospital in which the birth occurred, the certifying attendant, the town clerk in the town of occurrence or the town of residence, or the state registrar, setting forth the reason for such petition and the amendment desired. After six months from the date of birth, the birth certificate may be amended to add the father pursuant to a voluntary acknowledgment of parentage only as provided in this section.

(b) The state registrar may amend a certificate of birth after six months from the date of registration of the birth without a decree from the probate division of the superior court when the amendment is to address an administrative error as a result of data entry, electronic imaging, or other records management activity. The state registrar may refuse an application for amendment of an administrative error, in which case the applicant may petition the probate division of the superior court for the district in which the birth occurred for such amendment.

(c) The probate division of the superior court for the district in which the birth occurred shall set a time for hearing on a petition filed under this section and may cause notice thereof, if it deems notice to be necessary, by posting a notice in the public area of the court's office. After hearing such proper and relevant evidence as may be presented, the court shall make findings with respect to the birth of the person as are supported by the evidence, issue a decree setting forth the facts as found, and transmit a certified copy thereof to the state registrar.

(d) A certificate of birth that is amended by court order pursuant to this section shall have the words "Court Amended" at the top of the amended certificate and all copies thereof and the state registrar shall certify that the amendment was ordered by said court pursuant to this section with the date of decree. The amended information shall be notated on the amended certificate and all copies thereof to show the legal effects, including the date of the court order and specification of the information that was changed.

(e) The state registrar shall destroy any current version of the birth certificate maintained at the office of vital statistics and at local, regional, and state facilities and replace it with the amended version.

(f) Birth certificates that are amended pursuant to this section for corrections or additions that would have been permitted under subsection 5107(b) of this section if requested within six months of the registration of the birth of the child shall be amended without payment of a court fee.

(g) Whenever a person changes his or her name pursuant to chapter 13 of Title 15, he or she shall provide the probate division of the superior court with a certified copy of his or her birth certificate and, if married or a party to a civil union, a certified copy of his or her civil marriage or civil union certificate and a certified copy of the birth certificate of each minor child, if any. The register of probate with whom the change of name is filed and recorded shall transmit the certificates and a certified copy of the instrument of change of name to the state registrar. The state registrar shall amend the original birth certificate or certificates in accordance with the provisions of this section. Such amended certificates shall have the words "Court Amended" at the top of the amended certificate and all copies thereof and shall certify that the amendment was ordered by said court pursuant to this section. The amended information shall be notated on the amended certificate and all copies thereof to show the legal effects, including the date of the court order and specification of the information that was changed.

§ 5109. FORM AND EFFECT OF NEW CERTIFICATES

All birth certificates issued pursuant to the provisions of this chapter shall have the same force and effect as though filed in accordance with the provisions of section 5101 of this title. Each certified copy of such a certificate shall have the same force and effect as though the original certificate is presented. A certified copy shall provide the necessary elements to meet the legal requirements of state and federal law but is not required to be an exact image of the original certificate.

§ 5110. PARTICIPANTS IN ADDRESS CONFIDENTIALITY PROGRAM

(a) If a participant in the program described in chapter 21, subchapter 3 of Title 15 who is the parent of a child born during the period of program participation notifies the physician or midwife who delivers the child or the hospital at which the child is delivered not later than 72 hours after the birth of the child that the participant's confidential address should not appear on the child's birth certificate, then the department shall not disclose such confidential address or the participant's town of residence on any public record. A participant who fails to provide such notice shall be deemed to have waived the provisions of this section. Notwithstanding the provisions of section 5101 of this title, if notice of a parent's participation in the address confidentiality program is received in a timely fashion, the attendant physician or midwife shall file the certificate with the state registrar within five days of the birth

without the confidential address or town of residence and shall not file the certificate with the town clerk.

(b) The state registrar shall receive and file for record all certificates filed in accordance with this section and shall ensure that a parent's confidential address and town of residence do not appear on the birth certificate during the period that the parent is a program participant. The state registrar shall notify the secretary of state of the receipt of a birth certificate on behalf of a program participant.

(c) The department shall maintain a confidential record of the parent's actual mailing address and town of residence. Such record shall be exempt from public inspection and copying.

(d) Upon the renewal, expiration, withdrawal, invalidation, or cancellation of program participation of any parent for whom the secretary of state received notice from the state registrar, the secretary of state shall notify the state registrar.

(e) Notwithstanding the provisions of sections 5107 and 5108 of this title, upon notice of the expiration, withdrawal, invalidation, or cancellation of program participation, the state registrar shall enter the parent's actual mailing address and town of residence on the original birth certificate and shall transmit the completed original birth certificate to all sites with designated authority by the state registrar to hold such records and issue copies.

§ 5111. NAMES ON BIRTH CERTIFICATES

(a) A birth certificate is not complete and correct and acceptable for registration by the state registrar if such certificate contains:

(1) items completed with pictographs or ideographs or writing that is not part of the standard 26-letter English alphabet;

(2) given names or surnames written with symbols that have no phonetic standing on their own, provided, however, that numerals used for generational identifiers; common punctuation such as hyphens for hyphenated names, apostrophes used as part of a given name or surname, commas to separate surnames from generational identifiers, and periods in generational identifiers; and initials and abbreviations used as part of a name shall be permitted; or

(3) given names and surnames that exceed a total of 50 characters in length for each of the first, middle, and last names, to include hyphens, apostrophes, and periods when used as part of the name.

(b) Only one generational identifier may be used after the surname. Generational identifiers may not take the form of commonly conferred

academic honorifics, including M.D., J.D., D.O., Esq., B.A., B.S., M.A., M.S., or Ph.D. or other designations not commonly used as generational identifiers.

§ 5112. ISSUANCE OF NEW BIRTH CERTIFICATE; CHANGE OF SEX

(a) Upon receiving from the probate division of the superior court a court order that an individual's sexual reassignment has been completed, the state registrar shall issue a new birth certificate to show that the sex of the individual born in this state has been changed.

(b) An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence for the court to issue an order that sexual reassignment has been completed. The affidavit shall include the medical license number and signature of the physician.

(c) A new certificate issued pursuant to subsection (a) of this section shall be substituted for the original birth certificate in official records. The new certificate shall not show that a change in name or sex, or both, has been made. The original birth certificate, the probate court order, and any other records relating to the issuance of the new birth certificate shall be confidential and shall not be subject to public inspection pursuant to 1 V.S.A. § 317(c); however an individual may have access to his or her own records and may authorize the state registrar to confirm that, pursuant to court order, it has issued a new birth certificate to the individual that reflects a change in name or sex, or both.

(d) If an individual born in this state has an amended birth certificate showing that the sex of the individual has been changed, and the birth certificate is marked "Court Amended" or otherwise clearly shows that it has been amended, the individual may receive a new birth certificate from the state registrar upon application.

§ 5113. NAME CHANGE DUE TO THREAT TO PERSONAL SAFETY

(a) When a court of competent jurisdiction finds that there is an immediate and serious threat to the personal safety of an individual who has legally changed his or her name, the court may order the state registrar to issue a new birth certificate to the individual in the new name.

(b) The court order shall describe the type of violent threat and the evidence used to determine that serious harm would likely occur if the birth certificate was to show both the original and new names.

(c) The new birth certificate issued pursuant to this section shall not indicate any correction or amendment to the name.

(d) After registration of the birth certificate in the new name, the state registrar shall seal and file the original birth certificate and any associated records and documents, which shall not be subject to inspection except upon order of the probate division of the superior court for the district in which the birth occurred or as otherwise provided by law.

Sec. 3. 18 V.S.A. § 5202 is amended to read:

§ 5202. ~~DEATH CERTIFICATE; DUTIES OF PHYSICIAN~~ DEATH REGISTRATION

(a) A certificate of death for each death which occurs in Vermont shall be filed with the department in the manner and form prescribed by the commissioner within 24 hours after death or the finding of a dead body and prior to final disposition and shall be registered if the certificate has been completed and filed in accordance with this chapter.

(1) The commissioner shall prescribe, furnish, and distribute such forms as are required by this section or prescribe such other means for transmission of data as will accomplish the purpose of complete and accurate reporting and registration of deaths.

(2) If the place of death is unknown but the dead body is found in this state, the certificate of death shall be completed and filed in accordance with this chapter. The place where the body is found shall be shown as the place of death. If the exact date of death is unknown, the portions of the date known shall be entered as the date of death. If no portion of the date of death can be determined, the date of death shall be entered as unknown and the date the body was found shall be indicated as the date pronounced.

(3) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death.

(4) In all other cases, the place where death is pronounced shall be considered the place where death occurred.

(b) The death certificate shall contain at minimum: the name of the deceased person; the deceased person's date of birth; the deceased person's date of death; the deceased's place of death; the name of the person certifying the death; whether the deceased person was a veteran of any war and, if so, of

which war; and the cause of death. The department may request additional information as needed to fulfill federal and state requirements. The deceased person's Social Security number shall be collected but shall not be part of any public record and shall be exempt from inspection and copying.

(c) The ~~physician who is last in attendance upon a~~ attending licensed health care professional responsible for coordinating the care of the deceased person during his or her last illness shall immediately ~~fill out~~ complete a certificate of death on a form and in a manner prescribed by the commissioner, attest to the information by signature or an approved electronic process, and ensure that the completed certification of the death is provided to the state registrar within 24 hours after the death. For purposes of this section, a licensed heath care professional means a physician licensed pursuant to chapter 23 of Title 26, physician's assistant licensed pursuant to chapter 31 of Title 26, or advanced practice registered nurse licensed pursuant to chapter 28 of Title 26, but does not include a resident, fellow, or other temporary licensee. If ~~he~~ the attending licensed health care professional responsible for coordinating the deceased person's care during the last illness is unable to state the cause of death, he or she shall immediately notify the physician, if any, in charge of the patient's care for the illness or condition which resulted in death, who shall ~~fill out~~ complete the certificate. If neither physician is able to state the cause of death, the provisions of section 5205 of this title shall apply. The ~~physician~~ licensed health care professional may, with the consent of the funeral director, the deceased's next-of-kin, or another individual in charge of disposition of the body, delegate to ~~said funeral director~~ such person the responsibility of gathering data for and ~~filling out~~ completing all items except those in the medical certification ~~of cause of death~~ section. ~~All entries, except signatures, on the certificate shall be typed or printed. Such forms contain the following questions:~~

~~(1) Was the deceased a veteran of any war?~~

~~(2) If so, of what war?~~

~~(b) When death occurs to an admitted patient in a hospital and it is impossible to obtain a death certificate from an attending physician before burial or transportation, any physician who has access to the facts and can certify that death is not subject to the provisions of section 5205, may complete and sign a preliminary report of death on a form supplied by the commissioner of health. The town clerk or his deputy shall accept this report and issue a burial-transit permit. This preliminary report of death may be destroyed six months after a death certificate has been filed. This does not relieve the attending physician from the responsibility of completing a death certificate and delivering it to the funeral director within twenty-four hours after death.~~

~~(c) If a dead body must be removed immediately and a death certificate or preliminary report cannot be obtained, the town clerk, deputy or law enforcement officer may issue a temporary burial transit permit which shall expire forty-eight hours after issuance. This does not relieve the attending physician from the responsibility of completing a death certificate and delivering it to the funeral director within twenty-four hours after death. Upon receipt of the death certificate, the funeral director shall apply for and the issuing authority shall issue a burial transit permit to replace the temporary permit.~~

(d) Upon receipt of autopsy results or other information that would change the information in the cause-of-death section of the death certificate from that originally reported, the certifier or the pathologist who conducted the autopsy shall immediately notify the department to correct the record, consistent with section 5204 or 5205 of this title, as applicable.

Sec. 4. 18 V.S.A. § 5202a is amended to read:

§ 5202a. CORRECTION OF DEATH CERTIFICATE

(a) ~~Within six months after the date of death, the town clerk may correct or complete a death certificate upon application by the certifying physician, medical examiner, hospital, nursing home or funeral director. The town clerk may correct or complete the certificate accordingly and shall certify thereon that such correction or completion was made pursuant to this section, with the date thereof. In his or her discretion, the town clerk may refuse an application for correction or completion, in which case, the applicant may petition the probate division of the superior court for such correction or completion.~~

~~(b)(1) After six months from the date of death a death certificate may only be corrected or amended pursuant to decree of the probate division of the superior court in which district the original certificate is filed.~~

~~(2) The probate division of the superior court to which such application is made shall set a time for hearing thereon and, if such court deems necessary, cause notice of the time and place thereof to be given by posting the same in the probate division of the superior court office and, after hearing, shall make such findings, with respect to the correction of such death certificate as are supported by the evidence. The court shall thereupon issue a decree setting forth the facts as found, and transmit a certified copy of such decree to the supervisor of vital records registration. The supervisor of vital records registration shall transmit the same to the appropriate town clerk to amend the original or issue a new certificate. The words "Court Amended" shall be typed, written or stamped at the top of the new or amended certificates, with the date of the decree and the name of the issuing court.~~

Within six months after the date of registration of the death certificate, correction of obvious errors, of transpositions of letters in words of common knowledge, or of omissions may be made by the state registrar upon his or her own observation. The state registrar may make corrections to or complete items which are not obvious errors upon written request of the next of kin or other informant, the hospital, the nursing home, the certifying physician, the medical examiner, the funeral director or other person authorized to dispose of the body, or the town clerk in the town of occurrence or in the town of residence on a form provided by the state registrar. The state registrar may correct or complete the certificate accordingly and shall certify thereon that such correction or completion was made pursuant to this section, with the date thereof.

(b) The state registrar shall destroy any current version of the death certificate maintained at the office of vital statistics and at local, regional, and state facilities, and replace it with the corrected or completed version.

(c) The state registrar may refuse an application for correction or completion, in which case the applicant may petition the probate division of the superior court for the district in which the death occurred for such correction or completion.

~~(c)~~(d) ~~Provided, however, that only~~ Only the medical examiner ~~or the certifying physician~~, the certifier, or the pathologist who conducted the autopsy may apply to correct or complete the certificate as to items in the medical certification ~~of the cause of death~~ section.

Sec. 5. 18 V.S.A. § 5202b is added to read:

§ 5202b. AMENDMENT TO DEATH CERTIFICATE

(a) Except as provided in subsection (b) of this section, after six months from the date of registration of the death certificate of a person who died in this state, a death certificate may be amended only by the decree of the probate division of the superior court for the district in which the death occurred. Except as provided in subsection (h) of this section, a petition setting forth the reason for such petition and the amendment desired may be brought by the next of kin or other informant, the hospital, the nursing home, the certifying physician, the medical examiner, the funeral director, the town clerk in the town of occurrence or the town of residence, or the state registrar.

(b) The state registrar may amend a certificate of death after six months from the date of registration of the death certificate without a decree of a court when the amendment is to address an administrative error as a result of data entry, electronic imaging, or other records management activity. The state registrar may refuse an application for amendment of an administrative error,

in which case the applicant may petition the probate division of the superior court for the district in which the death occurred for such amendment.

(c) The probate division of the superior court for the district in which the death occurred shall set a time for hearing on a petition filed under this section and cause notice thereof, if it deems such necessary, by posting a notice in the public area of the court office. After hearing such proper and relevant evidence as may be presented, the court shall make such findings with respect to the death of the person as are supported by the evidence.

(d) The probate division of the superior court shall thereupon issue a decree setting forth the facts as found and transmit a certified copy thereof to the state registrar.

(e) A certificate of death that is amended by court order shall have the words "Court Amended" at the top of the amended certificate and all copies thereof, and the state registrar shall certify that the amendment was ordered by the court pursuant to this section with the date of decree. The amended information shall be notated on the amended certificate and all copies thereof to show the legal effects, including the date of the court order and specification of the information that was changed.

(f) The state registrar shall destroy any current version of the death certificate maintained at the office of vital statistics and at local, regional, and state facilities and replace it with the amended version.

(g) Death certificates that are amended under this section for administrative errors that would have been permitted within six months of the date of registration of the death certificate under section 5202a of this title shall be amended without payment of a court fee.

(h) Only the medical examiner, the certifier, or the pathologist who conducted the autopsy may apply to complete, correct, or amend a death certificate as to the medical certification section.

Sec. 6. 18 V.S.A. § 5203 is amended to read:

§ 5203. DEATH CERTIFICATE; MEMBER OF ARMED FORCES

(a) Upon official notification of a death of a member of the armed forces of the United States while serving as such beyond the United States, not including the territories thereof, and provided the remains of the member are not returned to this country, the next of kin thereof or interested person may file with the ~~clerk of the town of the residence of such member~~ state registrar a certificate of death. Such certificate shall set forth the name~~,~~; date of birth~~, and~~; date of death, if ~~the same~~ it can be determined~~,~~; the names of the parents of the

deceased; and such other information as may be deemed pertinent by the office of the adjutant general.

(b) The certificate shall be made on a form prescribed by the state registrar, and a certified copy thereof shall be forwarded to the office of the adjutant general.

Sec. 7. 18 V.S.A. § 5205 is amended to read:

§ 5205. DEATH CERTIFICATE WHEN NO ATTENDING PHYSICIAN; AUTOPSY

(a) When a person dies from violence, or suddenly when in apparent good health or when unattended by a physician or a recognized practitioner of a well-established church, or by casualty, or by suicide or as a result of injury or when in jail or prison, or any mental institution, or in any unusual, unnatural, or suspicious manner, or in circumstances involving a hazard to public health, welfare, or safety, the head of the household, the jailer or, the superintendent of a mental institution where such death occurred, or the next of kin, or the person discovering the body, or any doctor notified of the death, shall immediately notify the medical examiner who resides nearest the town where the death occurred, and, immediately upon being notified, such medical examiner shall notify the state's attorney of the county in which the death occurred. The state's attorney shall thereafter be in charge of the body and shall issue such instructions covering the care or removal of the body as he or she shall deem appropriate until he or she releases same.

(b) The medical examiner and a designated law enforcement officer shall thereupon together immediately make a proper preliminary investigation.

(c) Unless the cause and manner of death is uncertain, such medical examiner shall complete and sign a certificate of death in the manner prescribed by the commissioner. He or she and the designated law enforcement officer shall each submit a report of investigation to the state's attorney and the chief medical examiner. If, however, the cause or circumstances of death are uncertain, he or she shall immediately so advise the state's attorney of the county where the death occurred, and notify the chief medical examiner.

(d) The state's attorney of each county, with the advice of the commissioner of public safety or his designee, the sheriff, and the chief of police of any established police department, shall prepare a list of law enforcement officers in his or her county qualified to make an investigation and report. This list shall be made available to the medical officers concerned and such other persons as the state's attorney deems proper.

(e) If an undertaker or embalmer ~~shall~~, in the course of his or her employment, ~~find~~ finds evidence of physical violence on the body or evidence of an unlawful act sufficient to indicate to such a person that death might have been the result of an unlawful act, he or she shall immediately notify the state's attorney of the county where the body is then located and shall proceed no further with the preparation and embalming process of such body until permitted to do so by the state's attorney.

(f) The state's attorney or chief medical examiner, if either ~~deem~~ deems it necessary and in the interest of public health, welfare, and safety, or in furtherance of the administration of the law, may order an autopsy to be performed by the chief medical examiner or under his or her direction. Upon completion of the autopsy, the chief medical examiner shall submit a report to such state's attorney, the designated law enforcement officer investigating the case, and the attorney general and shall complete and sign a certificate of death in the manner prescribed by the commissioner.

(g) When a person who is committed to the custody of the department of corrections or who is under the supervision of the department of corrections dies, the commissioner of corrections may request to be provided with a copy of any and all reports generated pursuant to subsection (f) of this section. No such request shall be granted where the medical examiner is unable to determine a manner of death or the manner of death is classified as a homicide. In other circumstances, the request shall be granted in the discretion of the medical examiner for good cause shown. Reports disclosed pursuant to this subsection shall remain confidential as required by law and shall not be considered to be a public record pursuant to 1 V.S.A. § 317.

Sec. 8. 18 V.S.A. § 5207 is amended to read:

§ 5207. CERTIFICATE FURNISHED FAMILY; BURIAL PERMIT

The physician or person filling out the medical certification section of the certificate of death or preliminary report of death, within ~~thirty-six~~ 24 hours after death, shall deliver the same to the family of the deceased, if any, or the undertaker or person who has charge of the body. Such certificate or preliminary report of death shall be filed with the person issuing the certificate of permission for burial, entombment, or removal obtained by the person who has charge of the body before such dead body shall be buried, entombed, or removed from the town. When such certificate of death or preliminary report of death is so filed, such officer or person shall immediately issue a certificate of permission for burial, entombment, or removal of the dead body under legal restrictions and safeguards.

Sec. 9. 18 V.S.A. § 5207a is added to read:

§ 5207a. DELAYED REGISTRATION OF DEATH

(a) When a certificate of death of a person who died in this state has not been filed within one year after death, the next-of-kin of the deceased may file with the department an application for a delayed certificate of death. The application shall contain all information required for a certificate of death pursuant to section 5202 of this title, reasons for the delay in filing the death registration, and evidence substantiating the alleged facts of death.

(b) The death shall be registered on a delayed certificate of death form, which shall feature the word "Delayed" at the top and show on its face the date of registration. The delayed certificate shall contain a summary statement of the evidence submitted in support of the delayed registration.

(c) If an applicant does not submit the minimum documentation required for delayed registration or if the state registrar has cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence and if the deficiencies are not corrected, the state registrar shall not register the delayed certificate of death and shall advise the applicant of the reasons for this action and shall further advise the applicant of his or her right to seek an order from the probate division of the superior court for the district in which the death occurred.

Sec. 10. 18 V.S.A. § 5131 is amended to read:

§ 5131. ISSUANCE OF MARRIAGE LICENSE; SOLEMNIZATION; RETURN OF MARRIAGE CERTIFICATE

(a)(1) Upon application in a form prescribed by the department, a town clerk shall issue to a person a civil marriage license in the form prescribed by the department and shall enter thereon the names of the parties to the proposed marriage, fill out the form as far as practicable and retain in the clerk's office a copy thereof.

* * *

(3) At least one party to the proposed marriage shall sign the certifying application to the accuracy of the facts so stated. The license shall be issued by the clerk of the town where either party resides or, if neither is a resident of the state, by any town clerk in the state.

* * *

(c) Such certificate shall be returned within ten days to the office of the town clerk from which the license issued by the person solemnizing such marriage. The town clerk shall retain and file the original according to sections ~~5007~~ 5036 and ~~5008~~ 5037 of this title.

(d) A copy of the certificate of each marriage performed in Vermont shall be forwarded by the town clerk to the state registrar within 30 days following the filing of the certificate.

Sec. 11. 18 V.S.A. § 5132 is amended to read:

§ 5132. CIVIL MARRIAGE LICENSE; PARTICIPANTS IN ADDRESS CONFIDENTIALITY PROGRAM

(a) If a participant in the program described in subchapter 3 of chapter 21 of Title 15 notifies the town that the participant's confidential address should not appear on the civil marriage license or certificate, then the town clerk shall not disclose such confidential address or the participant's town of residence on any public records. A participant who fails to provide such notice shall be deemed to have waived the provisions of this section. If such notice is received, then notwithstanding section 5131 of this title, the town clerk shall file the marriage certificate with the ~~supervisor of vital records registration~~ state registrar within ten days of receipt, without the confidential address or town of residence, and shall not retain a copy of the marriage certificate.

(b) The ~~supervisor of vital records registration~~ state registrar shall receive and file for record all certificates filed in accordance with this section, and shall ensure that a person's confidential address and town of residence do not appear on the marriage certificate during the period that the person is a program participant. A certificate filed in accordance with this section shall be a public document. The ~~supervisor of vital records~~ state registrar shall notify the secretary of state of the receipt of a marriage certificate on behalf of a program participant.

(c) The department shall maintain a confidential record of the person's actual mailing address and town of residence. Such record shall be exempt from public inspection.

(d) Upon the renewal, expiration, withdrawal, invalidation, or cancellation of program participation of any person of whom the secretary of state received notice from the ~~supervisor of vital records registration~~ state registrar, the secretary of state shall notify the ~~supervisor of vital records registration~~ state registrar.

(e) Upon notice of the expiration, withdrawal, invalidation, or cancellation of program participation, the ~~supervisor of vital records registration~~ state registrar shall enter the actual mailing address and town of residence on the original marriage certificate and shall transmit the completed original marriage certificate to the town clerk where the certificate was issued.

(f) The town clerk shall process certificates received in this manner in accordance with the provisions of this chapter.

Sec. 12. 18 V.S.A. § 5150 is amended to read:

§ 5150. CORRECTION OF MARRIAGE CERTIFICATE

* * *

(b) After six months from the date a marriage is solemnized, a civil marriage certificate may only be corrected or amended pursuant to decree of the probate division of the superior court in which district the original certificate is filed. The probate division of the superior court to which such application is made shall set a time for hearing thereon and, if such court deems necessary, cause notice of the time and place thereof to be given by posting the same in the probate division of the superior court office and, after hearing, shall make such findings, with respect to the correction of such civil marriage certificate as are supported by the evidence. The court shall thereupon issue a decree setting forth the facts as found, and transmit a certified copy of such decree to the ~~supervisor of vital records registration. The supervisor of vital records registration shall transmit the same to the~~ appropriate town clerk to amend the original or issue a new certificate. The words "Court Amended" shall be typed, written or stamped at the top of the new or amended certificate with the date of the decree and the name of the issuing court.

(c) A copy of each corrected or amended certificate shall be forwarded by the town clerk to the state registrar within 30 days following the filing of the corrected or amended certificate.

Sec. 13. 18 V.S.A. § 5151(c) and (d) are amended to read:

(c) The court shall issue a decree setting forth the facts as found and transmit a certified copy of said facts to the ~~supervisor of vital records registration~~ state registrar.

(d) Where a delayed certificate is to be issued, the ~~supervisor of vital records registration~~ state registrar shall prepare a delayed certificate of civil marriage and transmit it, with the decree, to the clerk of the town where the civil marriage license was issued. This delayed certificate shall have the word "Delayed" printed at the top and shall certify that the certificate was ordered by a court pursuant to this chapter, with the date of the decree. The town clerk shall file the delayed certificate and~~, in accordance with the provisions of section 5010 of this title,~~ furnish a copy to the ~~department of health~~ state registrar within 30 days following the filing.

Sec. 14. 18 V.S.A. § 5152 is added to read:

§ 5152. COURT CLERKS; DIVORCE RETURNS

(a) A record of each order of divorce of marriage, annulment, and dissolution of civil union in Vermont shall be transmitted by the clerk of the family division of the superior court to the commissioner on a schedule and in a format established by the commissioner, but no less frequently than once each month.

(b) The record shall be prepared by the petitioner or his or her legal representative in a form prescribed by the commissioner and shall be presented to the clerk of the family division of the superior court with the petition. In all cases, the completed record shall be a prerequisite to the entry of the order.

(c) The record transmitted from the court to the commissioner shall contain:

(1) the names of the parties;

(2) the date of marriage or civil union;

(3) the number of children;

(4) such other statistical information available from the family division of the superior court clerk's file as may be required by the commissioner.

(d) The commissioner shall maintain a copy of the record of the divorce or dissolution and provide informational or certified copies on request as provided in section 5040 or 5041 of this title.

(e) The clerk of the family division of the superior court shall also send to the commissioner a report of the number of divorces and dissolutions which became absolute during the preceding month on a schedule and in a format established by the commissioner.

Sec. 15. 18 V.S.A. § 5168 is amended to read:

§ 5168. CORRECTION OF CIVIL UNION CERTIFICATE

* * *

(c) The probate division of the superior court shall set a time for a hearing and, if the court deems necessary, give notice of the time and place by posting such information in the probate division of the superior court office. After a hearing, the court shall make findings with respect to the correction of the civil union certificate as are supported by the evidence. The court shall issue a decree setting forth the facts as found, and transmit a certified copy of the decree to the ~~supervisor of vital records registration. The supervisor of vital records registration shall transmit the same to the~~ appropriate town clerk to amend the original or issue a new certificate. The words "Court Amended"

shall be typed, written or stamped at the top of the new or amended certificate with the date of the decree and the name of the issuing court.

(d) A copy of each corrected or amended certificate shall be forwarded by the town clerk to the state registrar within 30 days following the filing of the corrected or amended certificate.

Sec. 16. 18 V.S.A. § 5169(c) and (d) are amended to read:

(c) The court shall issue a decree setting forth the facts as found, and transmit a certified copy of ~~said~~ the facts to the ~~supervisor of vital records registration~~ state registrar.

(d) Where a delayed certificate is to be issued, the ~~supervisor of vital records registration~~ state registrar shall prepare a delayed certificate of civil union, and transmit it, with the decree, to the clerk of the town where the civil union license was issued. This delayed certificate shall have the word "Delayed" printed at the top, and shall certify that the certificate was ordered by a court pursuant to this chapter, with the date of the decree. The town clerk shall file the delayed certificate and~~, in accordance with the provisions of section 5010 of this title,~~ furnish a copy to the ~~department of health~~ state registrar within 30 days following the filing.

Sec. 17. 15 V.S.A. § 816 is amended to read:

§ 816. CERTIFICATE OF CHANGE; CORRECTION OF BIRTH AND CIVIL MARRIAGE RECORDS

Whenever a person changes his or her name, as provided in this chapter, he or she shall provide the probate division of the superior court with a copy of his or her birth certificate and, if married, a copy of his or her civil marriage certificate, and a copy of the birth certificate of each minor child, if any. The register of probate with whom the change of name is filed and recorded shall transmit the certificates and a certified copy of such instrument of change of name to the ~~supervisor of vital records registration~~ state registrar. The ~~supervisor of vital records registration~~ state registrar shall amend the birth certificates in accordance with section 5108 of Title 18 and shall forward the marriage certificate and a copy of such instrument of change of name to the town clerk in the town ~~where the person was born within the state, or~~ wherein the original certificate is filed, with instructions to amend the original marriage certificate and all copies thereof in accordance with the provisions of ~~Title 18,~~ chapter ~~101~~ 104 of Title 18. Such amended marriage certificates shall have the words "Court Amended" ~~stamped, written, or typed~~ at the top and shall show that the change of name was made pursuant to this ~~chapter~~ section, along with the date of decree.

Sec. 18. 15A V.S.A. § 1-101 is amended to read:

§ 1-101. DEFINITIONS

In this title:

* * *

(7) "Department" means the department ~~of social and rehabilitation services~~ for children and families.

* * *

(22) "State registrar" and "state registrar in the office of vital statistics" mean the supervisor of the office of vital statistics in the department of health.

(23) "Stepparent" means a person who is the spouse or surviving spouse of a parent of a child but who is not a parent of the child.

~~(23) "Supervisor of vital records" means the supervisor of vital records registration of the department of health.~~

Sec. 19. 15A V.S.A. § 3-705(a) is amended to read:

(a) A decree of adoption shall state or contain:

* * *

(6) information to be incorporated into a new birth certificate to be issued by the ~~supervisor of vital records~~ state registrar in the office of vital statistics, unless the petitioner or an adoptee who has attained 14 years of age requests that a new certificate not be issued;

* * *

Sec. 20. 15A V.S.A. § 3-801 is amended to read:

§ 3-801. REPORT OF ADOPTION

~~(a)~~ Within 30 days after a decree of adoption becomes final, the clerk of the court shall prepare a report of adoption ~~on a form furnished by the supervisor of vital records and certify and send the report to the supervisor. The report shall include:~~

~~(1) information in the court's record of the proceeding for adoption which is necessary to locate and identify the adoptee's birth certificate or, in the case of an adoptee born outside the United States, evidence the court finds appropriate to consider as to the adoptee's date and place of birth;~~

~~(2) information necessary to issue a new birth certificate for the adoptee and a request that a new certificate be issued, unless the court, the adoptive~~

~~parent, or an adoptee who has attained 14 years of age requests that a new certificate not be issued; and~~

~~(3) the file number of the decree of adoption and the date on which the decree became final.~~

~~(b) Within 30 days after a decree of adoption is amended or set aside, the clerk of the court shall prepare a report of that action on a form furnished by the supervisor of vital records and shall certify and send the report to the supervisor of vital records. The report shall include information necessary to identify the original report of adoption, and shall also include information necessary to amend or withdraw any new birth certificate that was issued pursuant to the original report of adoption~~ as provided in 18 V.S.A. § 5105.

Sec. 21. 15A V.S.A. § 3-802 is amended to read:

§ 3-802. ISSUANCE OF NEW BIRTH CERTIFICATE

~~(a) Except as otherwise provided in subsection (d) of this section, upon~~ Upon receipt of a report of adoption ~~prepared pursuant to section 3-801 of this title, a report of adoption prepared in accordance with the law of another state or country, a certified copy of a decree of adoption together with information necessary to identify the adoptee's original birth certificate and to issue a new certificate, or a report of an amended adoption, the supervisor of vital records shall:~~

~~(1) issue a new birth certificate for an adoptee born in this state and furnish a certified copy of the new certificate to the adoptive parent and to an adoptee who has attained 14 years of age;~~

~~(2) forward a certified copy of a report of adoption for an adoptee born in another state to the supervisor of vital records of the state of birth;~~

~~(3) issue a certificate of foreign birth for an adoptee adopted in this state and who was born outside the United States and was not a citizen of the United States at the time of birth, and furnish a certified copy of the certificate to the adoptive parent and to an adoptee who has attained 14 years of age;~~

~~(4) notify an adoptive parent of the procedure for obtaining a revised birth certificate through the United States Department of State for an adoptee born outside the United States who was a citizen of the United States at the time of birth; or~~

~~(5) in the case of an amended decree of adoption, issue an amended birth certificate according to the procedure in subdivision (a)(1) or (3) of this section or follow the procedure in subdivision (2) or (4) of this section.~~

~~(b) Unless otherwise specified by the court, a new birth certificate issued pursuant to subdivision (a)(1) or (3) or an amended certificate issued pursuant to subdivision (a)(5) of this section shall:~~

~~(1) be signed by the supervisor of vital records;~~

~~(2) include the date, time and place of birth of the adoptee;~~

~~(3) substitute the name of the adoptive parent for the name of the person listed as the adoptee's parent on the original birth certificate;~~

~~(4) include the filing date of the original birth certificate and the filing date of the new birth certificate;~~

~~(5) contain any other information prescribed by the supervisor of vital records.~~

~~(c) The supervisor of vital records, and any other custodian of such records, shall substitute the new or amended birth certificate for the original birth certificate. The original certificate and all copies of the certificate in the files shall be sealed and shall not be subject to inspection until 99 years after the adoptee's date of birth, except as provided by this title.~~

~~(d) If the court, the adoptive parent, or an adoptee who has attained 14 years of age requests that a new or amended birth certificate not be issued, the supervisor of vital records may not issue a new or amended certificate for an adoptee pursuant to subsection (a) of this section, but shall forward a certified copy of the report of adoption or of an amended decree of adoption for an adoptee who was born in another state to the appropriate office in the adoptee's state of birth.~~

~~(e) Upon receipt of a report that an adoption has been vacated, the supervisor of vital records shall:~~

~~(1) restore the original birth certificate for a person born in this state to its place in the files, seal any new or amended birth certificate issued pursuant to subsection (a) of this section, and not allow inspection of a sealed certificate except upon court order or as otherwise provided in this title;~~

~~(2) forward the report with respect to a person born in another state to the appropriate office in the state of birth; or~~

~~(3) notify the person who is granted legal custody of a former adoptee after an adoption is vacated of the procedure for obtaining an original birth certificate through the United States Department of State for a former adoptee born outside the United States who was a citizen of the United States at the time of birth.~~

~~(f) Upon request by a person who was listed as a parent on an adoptee's original birth certificate and who furnishes appropriate proof of the person's identity, the supervisor of vital records shall give the person a noncertified copy of the original birth certificate~~, a report of an amended decree of adoption, or a report or decree of annulment of adoption, pursuant to 18 V.S.A. § 5105, the state registrar shall establish a new or amended certificate of birth as provided in 18 V.S.A. § 5106.

Sec. 22. 15A V.S.A. § 5-108(c) is amended to read:

(c) Within 30 days after a decree of adoption becomes final, the clerk of the court shall prepare a report of the adoption for the ~~supervisor of vital records~~ state registrar in the office of vital statistics, and, if the petitioners have requested it, the report shall instruct the ~~supervisor~~ state registrar to issue a new birth certificate to the adoptee, as provided in ~~Article 3, Part 8 of this title~~ 18 V.S.A. § 5106.

Sec. 23. 24 V.S.A. § 1164 is amended to read:

§ 1164. CERTIFIED COPIES; FORM

A town clerk shall furnish certified copies of any instrument on record in his or her office, or any instrument or paper filed in his office pursuant to law, on the tender of his fees therefor, and his attestation shall be a sufficient authentication of the copies, except that the town clerk shall ~~not copy~~ exclude the word "illegitimate" from any copy of a birth certificate that he or she furnishes. A town clerk may furnish a certified copy of a vital record if his or her office has been designated by the health commissioner pursuant to 18 V.S.A. § 5034(c). Copies of vital records for events occurring outside the state, filed with a town clerk pursuant to ~~section 5015~~ 18 V.S.A. § 5036(e), shall not be copied and certified.

Sec. 24. 32 V.S.A. § 1715 is amended to read:

§ 1715. VITAL RECORDS SEARCH

(a) Upon payment of a ~~$10.00~~ $15.00 fee, the commissioner of health or the Vermont state archives and records administration shall provide certified copies of vital records or shall ascertain and certify what the vital records available to the commissioner and the Vermont state archivist show, except that the commissioner and the Vermont state archivist shall ~~not copy~~ exclude the word "illegitimate" from any birth certificate furnished. The fee for the search of the vital records is ~~$3.00~~ $5.00 which is credited toward the fee for the first certified copy based upon the search.

* * *

Sec. 25. REDESIGNATION

Chapter 103 of Title 18 shall be redesignated as "Birth information network."

Sec. 26. REPEALS

The following are repealed:

(1) 18 V.S.A. chapter 101 (vital records generally).

(2) 18 V.S.A. §§ 5071–5083, inclusive (birth certificates).

(3) 18 V.S.A. § 5204 (certified copy of death certificate forwarded to adjutant general).

(4) 18 V.S.A. § 5206 (penalty for failure to furnish death certificate).

(5) Sec. 6 of No. 151 of the Acts of the 2009 Adj. Sess. (2010).

Sec. 27. Sec. 7 of No. 151 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage ~~except that Sec. 6 shall take effect on January 1, 2012~~.

Sec. 28. 32 V.S.A. § 1671 is amended to read:

§ 1671. TOWN CLERK

(a) For the purposes of this section a "page" is defined as a single side of a leaf of paper on which is printed, written, or otherwise placed information to be recorded or filed. The maximum covered area on a page shall be 7 1/2 inches by 14 inches. All letters shall be at least one-sixteenth inch in height or in at least eight point type. Unless otherwise provided by law, the fees to town clerks shall be as follows:

(1) For recording a trust mortgage deed as provided in 24 V.S.A. § 1155, $10.00 per page;

(2) For filing or recording a copy of a complaint to foreclose a mortgage as provided in 12 V.S.A. § 4523(b), $10.00 per page;

(3) For examination of records by town clerk a fee of $5.00 per hour may be charged but not more than $25.00 for each examination on any one calendar day;

(4) For examination of records by others a fee of $2.00 per hour may be charged;

(5) Town clerks may require fees for all filing, recording and copying to be paid in advance;

(6) For the recording or filing, or both, of any document that is to become a matter of public record in the town clerk's office, or for any certified copy of such document, a fee of $10.00 per page shall be charged; except that for the recording or filing, or both, of a property transfer return, a fee of $10.00 shall be charged;

(7) For uncertified copies of records and documents on file, or recorded, a fee of $1.00 per page shall be charged, with a minimum fee of $2.00; however, copies of minutes of municipal meetings or meetings of local boards and commissions, copies of grand lists and checklists and copies of any public records that any agency of that political subdivision has deposited with the clerk shall be available to the public at actual cost;

(8) For survey plats filed in accordance with chapter 17 of Title 27, a fee of $15.00 per 11 inch by 17 inch sheet, $15.00 per 18 inch by 24 inch sheet, and $15.00 per 24 inch by 36 inch sheet shall be charged.

(9) Notwithstanding subdivision (6) of this subsection, for a certified copy of a vital record, a fee of $15.00 shall be charged. For the search of certified vital records, a fee of $5.00 shall be charged, provided that the fee for the search shall be credited toward the fee for the first certified copy of the vital record. For an informational copy of a vital record, a fee of $5.00 shall be charged.

* * *

Sec. 29. 18 V.S.A. § 5087 is amended to read:

§ 5087. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

(a) The commissioner of health shall establish a statewide birth information network designed to identify newborns who have specified health conditions which may respond to early intervention and treatment by the health care system.

(b) The department of health is authorized to collect information for the birth information network for the purpose of preventing and controlling disease, injury, and disability. The commissioner of health, in collaboration with appropriate partners, shall coordinate existing data systems and records to enhance the network's comprehensiveness and effectiveness, including:

(1) Vital records (birth, death, and fetal death certificates).

(2) The children with special health needs database.

(3) Newborn metabolic screening.

(4) Universal newborn hearing screening.

(5) The hearing outreach program.

(6) The cancer registry.

(7) The lead screening registry.

(8) The immunization registry.

(9) The special supplemental nutrition program for women, infants, and children.

(10) The Medicaid claims database.

(11) The hospital discharge data system.

(12) Health records (such as discharge summaries, disease indexes, nursery logs, pediatric logs, and neonatal intensive care unit logs) from hospitals, outpatient specialty clinics, genetics clinics, and cytogenetics laboratories.

(13) The Vermont health care claims uniform reporting and evaluation system.

(c) The commissioner of health shall refer to the report submitted to the general assembly by the birth information council, pursuant to section 5086 of this title, for the purpose of establishing guiding principles for the research and decision-making necessary for the development of the birth information network.

(d) The network shall provide information on public health activities, such as surveillance, assessment, and planning for interventions to improve the health and quality of life for Vermont's infants and children and their families. This information shall be used for improving health care delivery systems and outreach and referral services for families with children with special health needs and for determining measures that can be taken to prevent further medical conditions.

(e) The network shall be designed to follow infants and children up to one year of age with upper and lower limb deficiencies and the 40 medical conditions listed in the matrix developed by the birth information council which have been selected as identifiable via existing Vermont data systems and are considered to be representative of the most significant health conditions of newborns in Vermont. The department of health is authorized to amend the list of medical conditions through rulemaking pursuant to chapter 25 of Title 3 to meet the objectives of this section.

(f) The network's data system shall be designed to coordinate with the data systems of other states so that data on out-of-state births to Vermont residents will be captured for vital records, case ascertainment, and follow-up services.

The commissioner of health is authorized to enter into interstate agreements containing the necessary conditions for information transmission.

(g) The commissioner of health shall compile information every two years to document possible links between environmental and chemical exposure with the special health conditions of Vermont's infants and children.

(h) The department of health shall develop a form that contains a description of the birth information network and the purpose of the network. The form shall include a statement that the parent or guardian of a child may contact the department of health and have his or her child's personally identifying information removed from the network, using a process developed by the advisory committee.

Sec. 30. EFFECTIVE DATE

This act shall take effect on January 1, 2012, except that 18 V.S.A. § 5112 (birth certificate; change of sex) and Sec. 29 (birth information network) of this act shall take effect on passage.

(Committee Vote: 10-0-1)

H. 259

An act relating to increasing the number of members on the liquor control board

Rep. Andrews of Rutland City, for the Committee on **General, Housing and Military Affairs,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 101 is amended to read:

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR CONTROL; LIQUOR CONTROL BOARD

(a) The department of liquor control, created by section 212 of Title 3, shall include the commissioner of liquor control and the liquor control board.

(b) The liquor control board shall consist of ~~three~~ five persons, not more than ~~two~~ three members of which shall belong to the same political party. Biennially, with the advice and consent of the senate, the governor shall appoint a person as a member of such board for ~~the term of six years~~ a staggered five-year term, whose term of office shall commence on February 1 of the year in which such appointment is made. The governor shall biennially designate a member of such board to be its chairman.

Sec. 2. TRANSITIONAL PROVISIONS

Of the two new member positions on the liquor control board, the governor shall appoint one member for a three-year term and one member for a five-year term.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee Vote: 8-0-0)

H. 264

An act relating to driving while intoxicated and to forfeiture and registration of motor vehicles

Rep. Lippert of Hinesburg, for the Committee on **Judiciary,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

This act is intended to help prevent the harm caused to Vermonters and their families and friends by persons who repeatedly operate motor vehicles while under the influence of alcohol or other drugs. The list of Vermonters who have died or been injured because of persons who repeatedly operate motor vehicles while under the influence of alcohol or other drugs is far too long. It includes both the victims of recent high profile cases, such as Nick Fournier and Kaye Borneman, as well as others whose deaths and injuries may have received less public notice. All of these people are and were equally precious. This act cannot now help them, but it is intended to use lessons learned from these losses to create new approaches to help prevent the needless and heartrending harm suffered by the victims, living and dead, of those who drive under the influence.

* * * Registration, licensing, and insurance * * *

Sec. 2. 23 V.S.A. § 303 is amended to read:

§ 303. APPLICATION REQUIRED

* * *

(b) An application for registration may be refused by the commissioner if it is not accompanied by proof of payment of the use tax imposed by ~~section~~ Section 4481 of the Internal Revenue Code of 1986 in such form as may be prescribed by the Secretary of the Treasury or in another form acceptable to the commissioner in the case of vehicles which are subject to the tax.

(c)(1) The commissioner shall refuse an application for registration of a vehicle with a single registrant or revoke the registration of a vehicle with a single registrant if the applicant's or registrant's license or learner's permit is suspended or revoked in any jurisdiction.

(2) The commissioner shall not approve an application for a transfer of title to a motor vehicle if the transferor's license or learner's permit is suspended or revoked in any jurisdiction and the transferor is named as a transferee or new owner on the application.

Sec. 3. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner or operator of a motor vehicle required to be licensed shall operate or permit the operation of the vehicle upon the highways of the state without having in effect an automobile liability policy or bond in the amounts of at least $25,000.00 for one person and $50,000.00 for two or more persons killed or injured and $10,000.00 for damages to property in any one accident. In lieu thereof, evidence of self-insurance in the amount of $115,000.00 must be filed with the commissioner of motor vehicles. Such financial responsibility shall be maintained and evidenced in a form prescribed by the commissioner. The commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates this section shall be assessed a civil penalty of not more than ~~$100.00~~ $500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

Sec. 4. DEPARTMENT OF MOTOR VEHICLES PROCEDURES

On or before January 15, 2012, the department of motor vehicles shall:

(1) configure its computer system so that it is able to accept notice directly from insurance companies that a person's motor vehicle insurance policy has been cancelled; and

(2) develop a system which, when a person applies for a license to operate a motor vehicle, alerts the department that the person's license is suspended in another jurisdiction.

*** Permitting Unlicensed or Impaired Person to Operate ***

Sec. 6. 23 V.S.A. § 1130 is amended to read:

§ 1130. PERMITTING UNLICENSED OR IMPAIRED PERSON TO OPERATE

(a) No person shall knowingly employ~~, as operator of a motor vehicle, a~~ another person as an operator of a motor vehicle knowing that the other person is not licensed as provided in this title.

(b) No person shall ~~knowingly~~ permit a motor vehicle owned by him or her or under his or her control to be operated by ~~a~~ another person ~~who~~ if the person who owns or controls the vehicle knows that the other person has no legal right to ~~do so, or in violation of a provision of this title~~ operate the vehicle.

(c) No person shall permit a motor vehicle owned by him or her or under his or her control to be operated by another person if the person who owns or controls the vehicle has actual or constructive knowledge that the operator is:

(1) under the influence of intoxicating liquor; or

(2) under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely.

(d)(1) A person who violates subsection (c) of this section shall be fined not more than $1,000.00 or imprisoned for not more than six months, or both.

(2) If the death or if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of subsection (c) of this section, the person convicted of the violation shall be fined not more than $5,000.00 or imprisoned not more than two years, or both. The provisions of this subdivision do not limit or restrict prosecutions for manslaughter.

(e) In a prosecution under this section, the defendant may raise as an affirmative defense to be proven by a preponderance of the evidence that the unlicensed person obtained permission from the defendant to operate the motor vehicle by placing the defendant under duress or subjecting the defendant to coercion.

* * * DUI penalties and alternative sanctions * * *

Sec. 7. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

* * *

(d) Third ~~or subsequent~~ offense. A person convicted of violating section 1201 of this title who has ~~twice~~ previously been convicted two times of a violation of that section shall be fined not more than $2,500.00 or imprisoned not more than five years, or both. At least ~~400 hours of community service shall be performed, or~~ 100 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court may impose a sentence that does not include a term of imprisonment or that does not require that the 100 hours of imprisonment be served consecutively only if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three times of a violation of that section shall be fined not more than $5,000.00 or imprisoned not more than ten years, or both. At least 200 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court shall not impose a sentence that does not include a term of imprisonment unless the court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

(2) The department of corrections shall provide appropriate alcohol and substance abuse therapy to any person convicted of a violation of this subsection.

~~(e)(1)~~(f)(1) Death resulting. If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than $10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.

(2) If the death of more than one person results from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent.

(3)(A) If the death of any person results from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of that section, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-

year minimum term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if the death of any person results from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of that section, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

~~(f)(1)~~(g)(1) Injury resulting. If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person other than the operator from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than $5,000.00, or imprisoned not more than 15 years, or both.

(2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to more than one person other than the operator from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured.

(3)(A) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of section 1201, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of section 1201, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

~~(g)~~(h) Determination of fines. In determining appropriate fines under this section the court may take into account the total cost to a defendant of alcohol screening, participation in the alcohol and driving education program and therapy and the income of the defendant.

~~(h)~~(i) A person convicted of violating section 1201 of this title shall be assessed a surcharge of $60.00, which shall be added to any fine imposed by the court. The court shall collect and transfer such surcharge to the department of health for deposit in the health department's laboratory services special fund.

~~(i)~~(j) A person convicted of violating section 1201 of this title shall be assessed a surcharge of $50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to the office of defender general for deposit in the public defender special fund specifying the source of the monies being deposited. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.

~~(j)~~(k) A person convicted of violating section 1201 of this title shall be assessed a surcharge of $50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to be credited to the DUI enforcement fund. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.

Sec. 8. COMPREHENSIVE SYSTEM TO REDUCE REPEAT DUI OFFENSES; DEPARTMENTS OF MOTOR VEHICLES, PUBLIC SAFETY, AND CORRECTIONS

On or before January 15, 2012, the departments of motor vehicles, public safety, and corrections shall jointly report to the house and senate committees on judiciary a plan for implementation of a comprehensive system of penalties, alternative sanctions, and treatment to reduce the number of persons with repeat offenses of operating motor vehicles while under the influence of alcohol or other drugs. The system may include, among other measures, the following:

(1) a mandatory sobriety program for repeat DUI offenders similar to South Dakota's "24/7 Sobriety Program;"

(2) increased penalties for operating a vehicle with an alcohol concentration substantially greater than the legal limit;

(3) lowering the legally permissible alcohol concentration for operating a motor vehicle by persons who have previously been convicted of operating a motor vehicle while under the influence of alcohol or other drugs;

(4) enhanced use of ignition interlock devices;

(5) mandatory alcohol and drug counseling and treatment for persons convicted of operating a motor vehicle while under the influence of alcohol or other drugs;

(6) establishment of a secure facility for housing and treatment of persons convicted of operating a motor vehicle while under the influence of alcohol or drugs; and

(7) the circumstances under which the operator of a motor vehicle may be required to submit to a blood test to determine whether he or she has been operating the vehicle while under the influence of a drug other than alcohol.

* * * Detention of operator; forfeiture and immobilization of vehicle * * *

Sec. 9. 23 V.S.A. § 1212 is amended to read:

§ 1212. CONDITIONS OF RELEASE AND PAROLE; ARREST UPON VIOLATION

* * *

(d) A law enforcement officer or a corrections officer who observes a person violating a condition of parole requiring that the person not operate a motor vehicle may promptly arrest the person for violating the condition and may detain the person pursuant to 28 V.S.A. § 551. The officer may immobilize the vehicle and shall immediately notify the parole board of the suspected violation. If the parole board determines pursuant to 28 V.S.A. § 552 that a parole violation has occurred, the board shall notify the state's attorney in the county where the violation occurred, who may institute forfeiture proceedings against the vehicle under section 1213c of this title.

Sec. 10. 23 V.S.A. § 1213b is amended to read:

§ 1213b. FORFEITURE OF VEHICLE

At the time of sentencing after a third or subsequent conviction under section 1201 of this title or after a conviction under subdivision 1130(c)(2) of this title, or upon a determination by the parole board that a person has violated a condition of parole requiring that the person not operate a motor vehicle, the court may, upon motion of the state and in addition to any penalty imposed by law and after notice and hearing, order the motor vehicle operated by the defendant or parolee at the time of the offense forfeited and sold as provided in section 1213c of this title.

(Committee Vote: 10-0-1)

H. 287

An act relating to job creation and economic development

Rep. Botzow of Pownal, for the Committee on **Commerce and Economic Development,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Incentive Grants; VEGI * * *

Sec. 1. VERMONT BUSINESS PARTNER INCENTIVE

(a) Definitions. In this section:

(1) "Eligible new employer" means a person:

(A) who has been in business for three or more years and is domiciled in a state other than Vermont;

(B) who has an existing supplier or vendor relationship with the recruiting qualified taxpayer;

(C) who establishes a new business location within Vermont and hires five or more new full-time employees; and

(D) who does not control and who is not controlled by the recruiting qualified taxpayer. For purposes of this subdivision (D), "control," including the term "controlled by," means:

(i) having the power, directly or indirectly, to elect or remove a majority of the members of the other governing body of a person through the ownership of voting shares or interests, by contract, or otherwise; or

(ii) being subject to a majority of the risk of loss from the person's activities or entitled to receive a majority of the person's residual returns.

(2) "Full-time employee" means an individual who works at least 35 hours per week at a Vermont business location and is paid a qualified wage.

(3) "Qualified taxpayer" means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers' compensation policy.

(4) "Qualified wage" means compensation that meets or exceeds the prevailing wage and benefit levels for the region and sector, as determined by the commissioner of labor.

(5) "Secretary" means the secretary of commerce and community development.

(b) Amount and availability of incentive.

(1) A qualified taxpayer and an eligible new employer shall each be entitled to an incentive equal to $500.00 for each full-time employee of an eligible new employer hired on or before December 31, 2012, as certified by the secretary, not to exceed $5,000.00 per recipient per year.

(2) A qualified taxpayer and an eligible new employer may claim an incentive by filing with the agency of commerce and community development, on a form created by the secretary for that purpose, one year after the date the eligible new employer established its qualifying Vermont business location, as certified by the secretary.

(3) The secretary may in his or her discretion reduce to three the minimum number of employees required of a relocating eligible new employer if the compensation paid to one or more of the new employees exceeds by at least 20 percent the qualified wage for the position.

Sec. 2. Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006) is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act. Unless extended by act of the General Assembly, as of ~~January~~ July 1, 2012, no new Vermont employment growth incentive (VEGI) awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to ~~January~~ July 1, 2012 may remain in effect until used.

Sec. 3. 32 V.S.A. § 5930a(c)(1) is amended to read:

(1) The enterprise should create new, full-time jobs to be filled by individuals who are Vermont residents. The new jobs shall not include jobs or employees transferred from an existing business in the state, or replacements for vacant or terminated positions in the applicant's business. The new jobs include those that exceed the applicant's average annual employment level in Vermont during the two preceding ~~fiscal~~ years, unless the council determines that the enterprise will establish a significant new line of business and create new jobs in the new line of business that were not part of the enterprise prior to filing its application for incentives with the council. The enterprise should provide opportunities that increase income, reduce unemployment, and reduce facility vacancy rates. Preference should be given to projects that enhance economic activity in areas of the state with the highest levels of unemployment and the lowest levels of economic activity.

Sec. 4. 32 V.S.A. § 5930b(a)(24) is amended to read:

(24) "Wage threshold" means the minimum annualized Vermont gross wages and salaries paid, as determined by the council, but not less than 60 percent above the Vermont minimum wage at the time of application, in order for a new job to be a qualifying job under this section, unless the council determines that, based on a certification by the secretary of commerce and community development, the enterprise would create new jobs in a county of Vermont with an average unemployment rate that exceeds the average statewide unemployment rate for the most recently reported three-month period prior to the date of application.

Sec. 5. 32 V.S.A. § 5930b(e) is amended to read:

(e) Reporting. By May 1, 2008 and by May 1 each year thereafter, the council and the department of taxes shall file a joint report on the employment growth incentives authorized by this section with the chairs of the house committee on ways and means, the house committee on commerce and economic development, the senate committee on finance, the senate committee on economic development, housing and general affairs, the house and senate committees on appropriations, and the joint fiscal committee of the general assembly and provide notice of the report to the members of those committees. The joint report shall contain the total authorized award amount of incentives granted during the preceding year, amounts actually earned and paid from inception of the program to the date of the report, including the date and amount of the award, the expected calendar year or years in which the award will be exercised, whether the award is currently available, the date the award will expire, ~~and~~ the amount and date of all incentives exercised, and any waiver of the wage threshold requirements granted pursuant to subdivision (a)(24) of this section. The joint report shall also include information on recipient performance in the year in which the incentives were applied, including the number of applications for the incentive, the number of approved applicants who complied with all their requirements for the incentive, the aggregate number of new jobs created, the aggregate payroll of those jobs and the identity of businesses whose applications were approved. The council and department shall use measures to protect proprietary financial information, such as reporting information in an aggregate form.

Sec. 6. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (STEM) INCENTIVE PROGRAM

(a) In this section:

(1) "Accredited institution" means an educational institution that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States secretary of education.

(2) "Qualified new employee" means a person who:

(A) is hired by a qualified employer for a STEM position on or before December 31, 2012;

(B) graduated from an accredited institution with an associate's degree or higher not more than 18 months before the date of hire; and

(C) is paid annual compensation of not less than $50,000.00, including the value of benefits.

(3) "Qualified employer" means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers' compensation policy.

(4) "Secretary" means the secretary of commerce and community development.

(5) "STEM position" means an employment position in the field of science, technology, engineering, or mathematics that requires, as determined by the secretary in his or her discretion, a high level of scientific or mathematical knowledge and skill. The term shall not include a position of academic instruction with a college or university.

(6) "Student loan" means debt incurred for the purpose of paying tuition and expenses at an accredited institution, excluding any debt or other financial assistance provided by a family member, relative, or other private person.

(b)(1) A qualified new employee who is hired by and remains in a STEM position with one or more qualified employers for a period of not less than five years shall be eligible for an incentive to pay a qualified student loan in the amount of $1,500.00 per year for five years.

(2) A qualified new employee shall notify the secretary of his or her initial employment in a STEM position within 30 days of the date of hire and shall provide the secretary an annual notice of employment in a STEM position in each of the five years thereafter.

(3) Following receipt of an annual notice of employment in a STEM position and verification of employment with one or more qualified employers, the secretary shall deliver an incentive to the qualified new employee pursuant to subdivision (1) of this subsection.

(4) The secretary shall award up to a maximum of $75,000.00 per year for incentives in accordance with this section.

(c) The secretary shall design and make available on the agency of commerce and community development website:

(1) any forms necessary for a new employee to apply for an incentive available under this section; and

(2) a list of STEM positions for which a new employee may be eligible for an incentive under this section.

Sec. 7. LONG-TERM UNEMPLOYED HIRING INCENTIVE

(a) In this section:

(1) "New full-time employment" means employment by a qualified employer in a permanent position at least 35 hours each week in the year for which an incentive is claimed at a compensation of not less than the average wage for the corresponding economic sector in the county of the state as determined by the Vermont department of labor.

(2) "Qualified employer" means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers' compensation policy.

(3) "Qualified long-term unemployed Vermonter" means a legal resident of Vermont who collected unemployment insurance benefits in the state of Vermont for five months or more or whose collection of unemployment insurance benefits has expired within 30 days of the date of new employment with a qualified employer and who was hired through a referral from the Vermont department of labor.

(b) A qualified employer who hires a qualified long-term unemployed Vermonter on or before December 31, 2012 shall be eligible to receive a hiring incentive one year after the employee's date of hire in the amount of $500.00, not to exceed $5,000.00 per year per employer.

(c) The commissioner of labor shall administer payment of incentives consistent with this section and shall develop:

(1) an application form for qualified employers; and

(2) a process for verifying compliance with the eligibility requirements of the program.

Sec. 8. [RESERVED]

Sec. 9. [RESERVED]

* * * Labor; Workforce Training * * *

Sec. 10. 10 V.S.A. § 531 is amended to read:

§ 531. ~~EMPLOYMENT TRAINING~~ VERMONT TRAINING PROGRAM

(a) The secretary of commerce and community development may issue performance-based grants to any employer, consortium of employers, or ~~contract with~~ providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances:

* * *

(b) The secretary of commerce and community development shall find in the grant ~~or contract~~ that:

(1) the employer's new or expanded facility will enhance employment opportunities for Vermont residents;

(2) the existing labor force within the state will probably be unable to provide the employer with sufficient numbers of employees with suitable training and experience; ~~and~~

(3) the employer provides its employees with at least three of the following:

(A) health care benefits with 50 percent or more of the premium paid by the employer;

(B) dental assistance;

(C) paid vacation and holidays;

(D) child care;

(E) other extraordinary employee benefits; ~~and~~

(F) retirement benefits; and

(4) the training is directly related to the employment responsibilities of the trainee.

(c) The employer promises as a condition of the grant to:

(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of ~~30~~ 35 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of ~~20~~ 25 percent of the gross

program wage, upon completion of training; provided, however, that in areas defined by the secretary of commerce and community development in which the secretary finds that the rate of unemployment is ~~50 percent~~ greater than the average for the state, the wage rate under this subsection may be set by the secretary at a rate no less than one and one-half times the federal or state minimum wage, whichever is greater;

* * *

(4) survey a reasonable sample of employees, on a form prepared by the secretary of commerce and community development for that purpose, upon completion of training in a manner described in the grant agreement; and

(5) submit a customer satisfaction report to the secretary of commerce and community development, on a form prepared by the secretary for that purpose, no more than 30 days from the last day of the training program.

(d) In issuing a grant ~~or entering a contract~~ for the conduct of training under this section, the secretary of commerce and community development shall:

(1) first consult with: the commissioner of education regarding vocational-technical education; the commissioner of labor regarding apprenticeship programs, on-the-job training programs, and recruiting through Vermont Job Service and available federal training funds; the commissioner for children and families regarding welfare to work priorities; and the University of Vermont and the Vermont state colleges;

(2) disburse grant funds only for training hours that have been successfully completed by employees; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

* * *

(h) The secretary may designate the commissioner of economic, housing and community development to carry out his or her powers and duties under this chapter.

(i) ~~(1) Program Outcomes. The joint fiscal office shall prepare a training program performance report based on the following information submitted to it by the Vermont training program, which is to be collected from each participating employer and then aggregated:~~

~~(A) The number of full-time employees six months prior to the training and six months after its completion.~~

(B) For all existing employees, the median hourly wages prior to and after the training.

(C) The number of "new hires," "upgrades," and "crossovers" deemed eligible for the waivers authorized by statute and the median wages paid to employees in each category upon completion.

(D) A list and description of the benefits required under subdivision (c)(3) of this section for all affected employees, including the number of employees that receive each type of benefit.

(E) The number of employers allowed to pay reduced wages in high unemployment areas of the state, along with the number of affected workers and their median wage.

(2) Upon request by the secretary of commerce and community development, participating employers shall provide the information necessary to conduct the performance report required by this subsection. The secretary, in turn, shall provide such information to the joint fiscal office in a manner agreed upon by the secretary and the joint fiscal office. The secretary and the joint fiscal office shall take measures to ensure that company specific data and information remain confidential and are not publicly disclosed except in aggregate form. The secretary shall submit to the joint fiscal office any program outcomes, measurement standards, or other evaluative approaches in use by the training program.

(3) The joint fiscal office shall review the information collected pursuant to subdivisions (1) and (2) of this subsection and prepare a training program performance report with recommendations relative to the program. The joint fiscal office shall submit its first training program performance report on or before January 15, 2011, to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development. A second performance report shall be submitted on or before January 15, 2016. In addition to the information evaluated pursuant to subdivision (1) of this subsection, the second report shall include recommendations as to the following:

(A) whether the outcomes achieved by the program are sufficient to warrant its continued existence.

(B) whether training program outcomes can be improved by legislative or administrative changes.

(C) whether continued program performance reports are warranted and, if so, at what frequency and at what level of review.

~~(4) The joint fiscal office may contract with a consultant to conduct the performance reports required by this subsection. Costs incurred in preparing each report shall be reimbursed from the training program fund up to $15,000.00.~~

Program Outcomes.

(1) On or before January 15, 2012, the agency of commerce and community development, in coordination with the workforce development council and the department of labor and in periodic consultation with the joint fiscal office, shall develop a common set of benchmarks and performance measures for the training program established in this section and the workforce education and training fund established in section 543 of this title.

(2) On or before January 15, 2014, the joint fiscal office shall prepare a performance report using the benchmarks and performance measures created pursuant to subdivision (1) of this subsection. The fiscal office shall submit its report to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

(3) The secretary shall use information gathered pursuant to this subsection and the survey results and customer satisfaction reports submitted pursuant to subdivision (c)(4) of this section to evaluate the program and make necessary changes that fall within the secretary's authority or, if beyond the scope of the secretary's authority, to recommend necessary changes to the appropriate committees of the general assembly.

* * *

(k) Annually on or before January 15, the secretary shall submit a report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs summarizing all active and completed contracts and grants, the types of training activities provided, the number of employees served and, the average wage by employer and addressing any waivers granted.

Sec. 11. 10 V.S.A. § 544 is added to read:

§ 544. VERMONT INTERNSHIP PROGRAM

(a)(1) The department of labor shall develop and implement a statewide Vermont Internship Program for Vermonters who are in high school or in college and for those who are recent graduates of 18 months or less.

(2) The program shall serve as a single portal for coordinating and providing funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary

schools, regional technical centers, the Community High School of Vermont, and colleges.

(3) Funding awarded through the Vermont Internship Program may be used to administer an internship program and to provide students with a stipend during the internship, based on need. Funds may be made only to programs or projects that do all the following:

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate secondary and postsecondary students through work-based learning opportunities with Vermont employers that are likely to lead to real employment;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools;

(F) involve Vermont employers or interns who are Vermont residents; and

(G) offer students a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) For the purposes of this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded post-secondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont internship program;

(2) collect data and establish program goals and quantifiable performance measures for internship programs funded through the Vermont internship program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the state in the internship program to expand internship opportunities with state government and with entities awarded state contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the state.

Sec. 12. IMPLEMENTATION OF THE VERMONT INTERNSHIP PROGRAM; WORKERS' COMPENSATION

(a)(1) Program costs in fiscal year 2012 for the Vermont Internship Program created in 10 V.S.A. § 544 shall be funded through an appropriation from the next generation initiative fund established in 16 V.S.A. § 2887.

(2) Funding in subsequent years shall be recommended by the department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded post-secondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies.

(b)(1) The state shall make available workers' compensation coverage to an intern participating in the Vermont Internship Program if coverage is required by federal or state law and the participant would not otherwise be covered by an employer's workers' compensation policy.

(2) The state shall be considered a single entity solely for purposes of purchasing a single workers' compensation insurance policy providing coverage to intern participants.

(3) This subsection is intended strictly to permit the state to provide workers' compensation coverage, and the state shall not be considered the employer of an intern participant for any other purpose.

Sec. 13. 10 V.S.A. § 543(f) is amended to read:

(f) Awards. Based on guidelines set by the council, the commissioners of labor and of education shall jointly make awards to the following:

* * *

(2) Vermont Internship Program. ~~Public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, and colleges. For the purposes of this section, "internship"~~

~~means a learning experience working with an employer where the intern may, but does not necessarily receive academic credit, financial remuneration, a stipend, or any combination of these. Awards under this subdivision may be used to fund the cost of administering an internship program and to provide students with a stipend during the internship, based on need. Awards may be made only to programs or projects that do all the following:~~

~~(A) do not replace or supplant existing positions;~~

~~(B) create real workplace expectations and consequences;~~

~~(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;~~

~~(D) are designed to motivate and educate secondary and postsecondary students through work-based learning opportunities with Vermont employers that are likely to lead to real employment;~~

~~(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools;~~

~~(F) involve Vermont employers or interns who are Vermont residents; and~~

~~(G) offer students a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.~~ Funding for eligible internship programs and activities under the Vermont Internship Program established in section 544 of this section.

Sec. 14. [RESERVED]

* * * Entrepreneurship; Creative Economy * * *

Sec. 15. 3 V.S.A. § 2471c is added read:

§ 2471c. OFFICE OF CREATIVE ECONOMY

(a) The office of creative economy is created within the agency of commerce and community development in order to build upon the years of work and energy around creative economy initiatives in Vermont. The office shall provide business, networking, and technical support to enterprises involved with the creative economy, primarily focused on but not limited to such areas as film, new media, software development, and innovative commercial goods. The office shall work in collaboration with Vermont's private and public sectors to raise the profile and economic productivity of these activities.

(b) The office shall be administered by a director appointed by the secretary pursuant to section 2454 of this title and shall be supervised by the commissioner of the department of economic, housing and community development.

Sec. 16. REPEAL

10 V.S.A. chapter 26 (Vermont film corporation; Vermont film production incentive program) is repealed.

Sec. 17. RESERVED

Sec. 18. 11A V.S.A. § 8.20 is amended to read:

§ 8.20. MEETINGS

(a) The board of directors may hold regular or special meetings, as defined in subdivision 1.40(26) of this title, in or outside this state.

(b) The board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 19. 11B V.S.A. § 8.20 is amended to read:

§ 8.20. REGULAR AND SPECIAL MEETINGS

(a) If the time and place of a directors' meeting is fixed by the bylaws or the board, the meeting is a regular meeting. All other meetings are special meetings.

(b) A board of directors may hold regular or special meetings in or out of this state.

(c) Unless the articles of incorporation or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

* * * Finance; Access to Capital * * *

Sec. 20. 8 V.S.A. § 12603 is amended to read:

§ 12603. MERCHANT BANKS

* * *

(f) The minimum amount of initial capital for a merchant bank is ~~$10,000,000.00~~ $1,000,000.00, all of which ~~at least $5,000,000.00~~ shall be common stock or equity interest in the merchant bank. ~~The balance may be composed of qualifying subordinated or similar debt~~ A merchant bank may use qualified subordinated debt or senior debt as part of its capital structure above $1,000,000.00, provided that the amount of subordinated debt or senior debt used as capital above $1,000,000.00 is not greater that the amount of common stock or equity interest used as capital above $1,000,000.00. The commissioner, in his or her discretion, may increase the minimum capital required for a merchant bank.

* * *

(m) Any acquisition or change in control of ~~five~~ ten percent or more of the common stock or equity interests in a merchant bank shall be subject to the prior approval by the commissioner. The acquiring person shall file an application with the commissioner for approval. The application shall be subject to the provisions of subchapter 7 of chapter 201 of this title.

(n) The commissioner ~~may~~ shall examine the merchant bank and any person who controls it to the extent necessary to determine the soundness and viability of the merchant bank in the same manner as required by subchapter 5 of chapter 201 of this title.

(o) A merchant bank shall include on all its advertising a prominent disclosure that deposits are not accepted by a merchant bank.

(p) For purposes of this section, "control" means that a person:

(1) directly, indirectly, or acting through another person owns, controls, or has power to vote ten percent or more of any class of equity interest of the merchant bank;

(2) controls in any manner the election of a majority of the directors of the merchant bank; or

(3) directly or indirectly exercises a controlling influence over the management or policies of the merchant bank.

Sec. 21. 10 V.S.A. chapter 3 is added to read:

CHAPTER 3. EB-5 INVESTMENT

§ 21. EB-5 ENTERPRISE FUND

(a) An EB-5 enterprise fund is created for the operation of the state of Vermont EB-5 visa regional development center. The fund shall consist of revenues derived from fees charged by the agency of commerce and community development pursuant to subsection (c) of this section, any interest earned by the fund, and all sums which are from time to time appropriated for the support of the regional development center and its operations.

(b) The receipt and expenditure of moneys from the enterprise fund shall be under the supervision of the secretary of commerce and community development. The secretary shall maintain accurate and complete records of all receipts and expenditures by and from the fund, and shall make an annual report on the condition of the fund to the secretary of administration, the house committees on commerce and on ways and means, and the senate committees on finance and on economic development, housing and general affairs.

(c) Notwithstanding 32 V.S.A. chapter 7, subchapter 6, the secretary of commerce and community development is authorized to impose an administrative fee for services provided by the agency to investors in administering the state of Vermont EB-5 visa regional development center.

Sec. 22. [RESERVED]

Sec. 23. [RESERVED]

* * * Housing and Development * * *

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

§ 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

(a) ~~A~~ The Vermont downtown development board may designate a Vermont neighborhood in 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~~. An application for designation may be made by a municipality or by a landowner who meets the criteria under subsection (f) of this section. ~~A municipal decision to apply for designation shall be made by the municipal legislative body after at least one duly warned public hearing~~ An application by a municipality or a landowner shall be made after at least one duly warned public hearing by the legislative body. If the application is submitted by a landowner, the public hearing shall be a joint public hearing of the municipal

legislative body and the appropriate municipal panel, and shall be held concurrently with the local permitting process. Designation is possible in two different situations:

(1) Per se approval. If a municipality or landowner submits an application in compliance with this subsection for a designated Vermont neighborhood that would have boundaries that are entirely within the boundaries of a designated downtown district, designated village center, designated new town center, or designated growth center, the downtown board shall issue the designation.

(2) Designation by downtown board in towns without growth centers. If an application is submitted in compliance with this subsection by a municipality or a landowner in 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 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 or landowner has notified the regional planning commission and the regional development corporation of its application for this designation.

* * *

(f) If a municipality has not adopted either the minimum density requirements or design standards set out in subdivision (c)(5) of this section in its zoning bylaw, a landowner within a proposed Vermont neighborhood may apply to the downtown board for designation of a Vermont neighborhood that meets the standards set out in subdivision (c)(5) of this section by submitting:

(1) a copy of the plans and necessary municipal permits obtained for a project; and

(2) a letter of support for the project issued to the landowner from the municipality within 30 days of the effective date of a final municipal permit.

Sec. 25. 27A V.S.A. § 1-209 is amended to read:

§ 1-209. SMALL CONDOMINIUMS; EXCEPTION

~~A condominium that will contain no more than 12 units and is not subject to any development rights, unless the declaration provides that the entire act is applicable, shall not be subject to subsection~~ Subsection 2-101(b), subdivisions

2-109(b)(2) and (11), subsection 2-109(g), section 2-115, and Article 4 of this title shall not apply to a condominium if the declaration:

(1) creates fewer than ten units; and

(2) restricts ownership of a unit to entities that are controlled by, affiliated with, or managed by the declarant.

Sec. 26. REPEAL

Sec. 12 of No. 155 of the Acts of the 2009 Adj. Sess. (2010) (repeal of 27A V.S.A. § 1-209, effective January 1, 2012) is repealed.

Sec. 27. [RESERVED]

Sec. 28. [RESERVED]

* * * Economic Development Planning * * *

Sec. 29. 3 V.S.A. § 2293 is amended to read:

§ 2293. DEVELOPMENT CABINET

(a) Legislative purpose. The general assembly deems it prudent to establish a permanent and formal mechanism to assure collaboration and consultation among state agencies and departments, in order to support and encourage Vermont's economic development, while at the same time conserving and promoting Vermont's traditional settlement patterns, its working and rural landscape, its strong communities, and its healthy environment, all in a manner set forth in this section.

(b) Development cabinet. A development cabinet is created, to consist of the secretaries of the agencies of administration, of natural resources, of commerce and community affairs, ~~and~~ of transportation, and ~~the secretary of the agency~~ of agriculture, food and markets. The governor or the governor's designee shall chair the development cabinet. The development cabinet shall advise the governor on how best to implement the purposes of this section, and shall recommend changes as appropriate to improve implementation of those purposes. The development cabinet may establish interagency work groups to support its mission, drawing membership from any agency or department of state government.

(c) All state agencies that have programs or take actions affecting land use, including those identified under 3 V.S.A. chapter 67, shall, through or in conjunction with the members of the development cabinet:

(1) Support conservation of working lands and open spaces.

(2) Strengthen agricultural and forest product economies, and encourage the diversification of these industries.

(3) Develop and implement plans to educate the public by encouraging discussion at the local level about the impacts of poorly designed growth, and support local efforts to enhance and encourage development and economic growth in the state's existing towns and villages.

(4) Administer tax credits, loans, and grants for water, sewer, housing, schools, transportation, and other community or industrial infrastructure, in a manner consistent with the purposes of this section.

(5) To the extent possible, endeavor to make the expenditure of state appropriations consistent with the purposes of this section.

(6) Encourage development in, and work to revitalize, land and buildings in existing village and urban centers, including "brownfields," housing stock, and vacant or underutilized development zones. Each agency is to set meaningful and quantifiable benchmarks.

(7) Encourage communities to approve settlement patterns based on maintaining the state's compact villages, open spaces, working landscapes, and rural countryside.

(8) Encourage relatively intensive residential development close to resources such as schools, shops, and community centers and make infrastructure investments to support this pattern.

(9) Support recreational opportunities that build on Vermont's outstanding natural resources, and encourage public access for activities such as boating, hiking, fishing, skiing, hunting, and snowmobiling. Support and work collaboratively to make possible sound development and well-planned growth in existing recreational infrastructure.

(10) Provide means and opportunity for downtown housing for mixed social and income groups in each community.

(11) ~~Report annually to the governor and the legislature, through the chair of the development cabinet and the secretary of administration, on the effectiveness and impact of this section on the state's economic growth and land use development and the activities of the council of regional commissions.~~

(12) Encourage timely and efficient processing of permit applications affecting land use, including 10 V.S.A. chapter 151 and the subdivision regulations adopted under 18 V.S.A. § 1218, in order to encourage the development of affordable housing and small business expansion, while protecting Vermont's natural resources.

(13) Participate in creating a long-term economic development plan, including making available the members of any agency or department of state

government as necessary and appropriate to support the mission of an interagency work group established under subsection (b) of this section.

(d)(1) Pursuant to the recommendations of the oversight panel on economic development created in Section G6 of No. 146 of the Acts of the 2009 Adj. Sess. (2010), the development cabinet shall create an interagency work group as provided in subsection (b) of this section with the secretary of commerce and community development serving as its chair.

(2) The mission of the work group shall be to develop a long-term economic development plan for the state, which shall identify goals and recommend actions to be taken over ten years, and which shall be consistent with the four goals of economic development identified in 10 V.S.A. § 3 and the outcomes for economic development identified in Sec. 8 of No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(e)(1) On or before January 15, 2014, and every two years thereafter, the development cabinet or its workgroup shall complete a long-term economic development plan as required under subsection (d) of this section and recommend it to the governor.

(2) Commencing with the plan due on or before January 15, 2016, the development cabinet or its workgroup may elect only to prepare and recommend to the governor an update of the long-term economic development plan.

(3) Administrative support for the economic development planning efforts of the development cabinet or its workgroup shall be provided by the agency of commerce and community development.

~~(d)~~(f) Limitations. This cabinet is strictly an information gathering and coordinating cabinet and confers no additional enforcement powers.

Sec. 30. 24 V.S.A. chapter 117 is amended to read:

CHAPTER 117. MUNICIPAL AND REGIONAL PLANNING AND DEVELOPMENT

* * *

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(9) At least once every ~~eight~~ five years, review the compatibility of municipal plans, and if the regional planning commission finds that growth in a municipality without an approved plan is adversely affecting an adjoining

municipality, it shall notify the legislative body of both municipalities of that fact and shall urge that the municipal planning be undertaken to mitigate those adverse effects. If, within six months of receipt of this notice, the municipality creating the adverse effects does not have an approved municipal plan, the regional commission shall adopt appropriate amendments to the regional plan as it may deem appropriate to mitigate those adverse effects.

* * *

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include but need not be limited to the following:

* * *

(10) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

* * *

§ 4348b. READOPTION OF REGIONAL PLANS

(a) Unless they are readopted, all regional plans, including all prior amendments, shall expire every ~~eight~~ five years.

(b)(1) A regional plan that has expired or is about to expire may be readopted as provided under section 4348 of this title for the adoption of a regional plan or amendment. Prior to any readoption, the regional planning commission shall ~~review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the regional plan~~ prepare an assessment report which shall be a part of the readopted regional plan and shall detail the continuing applicability of the regional plan. The assessment report shall include:

(A) the extent to which the plan has been implemented since adoption or readoption;

(B) an evaluation of the goals and policies and any amendments necessary due to changing conditions of the region;

(C) an evaluation of the land use element and any amendments necessary to reflect changes in land use within the region or changes to regional goals and policies;

(D) priorities for implementation in the next five years; and

(E) updates to information and data necessary to support goals and policies.

(2) The readopted plan shall remain in effect for the ensuing ~~eight~~ five years unless earlier readopted.

(c) Upon the expiration of a regional plan under this section, the regional plan shall be of no further effect in any other proceeding.

* * *

§ 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL PLANNING EFFORT

(a) ~~A~~ As provided in subdivisions 4345a(8) and (9) of this chapter, a regional planning commission shall consult with its municipalities with respect to the municipalities' planning efforts, ascertaining the municipalities' needs as individual municipalities and as neighbors in a region, assessing the compatibility of municipal plans, and identifying the assistance that ought to be provided by the regional planning commission. As a part of this consultation, the regional planning commission, after public notice, shall review the planning process of its member municipalities at least twice during a eight-year period, or more frequently on request of the municipality, and shall so confirm when a municipality:

(1) is engaged in a continuing planning process that, within a reasonable time, will result in a plan which is consistent with the goals contained in section 4302 of this title; and

(2) is maintaining its efforts to provide local funds for municipal and regional planning purposes.

(b)~~(1)~~ As part of the consultation process, the commission shall consider whether a municipality has adopted a plan. In order to obtain or retain confirmation of the planning process ~~after January 1, 1996~~, a municipality must have an approved plan. A regional planning commission shall review and approve plans and plan amendments of its member municipalities, when approval is requested and warranted. Each review shall include a public hearing which is noticed at least 15 days in advance by posting in the office of the municipal clerk and at least one public place within the municipality and by publication in a newspaper or newspapers of general publication in the region affected. The commission shall approve a plan if it finds that the plan:

~~(A)~~(1) is consistent with the goals established in section 4302 of this title;

~~(B)~~(2) is compatible with its regional plan;

~~(C)~~(3) is compatible with approved plans of other municipalities in the region; and

~~(D)~~(4) contains all the elements included in subdivisions 4382(a)(1)-(10) of this title.

~~(2) Prior to January 1, 1996, if a plan contains all the elements required by subdivisions 4382(a)(1)-(10) and is submitted to the regional planning commission for approval but is not approved, it shall be conditionally approved.~~

(c) A commission shall give approval or disapproval to a municipal plan or amendment within two months of its receipt following a final hearing held pursuant to section 4385 of this title. The fact that the plan is approved after the deadline shall not invalidate the plan. If the commission disapproves the plan or amendment, it shall state its reasons in writing and, if appropriate, suggest acceptable modifications. Submissions for approval that follow a disapproval shall receive approval or disapproval within 45 days.

(d) The commission shall file any adopted plan or amendment with the department of economic, housing and community development within two weeks of receipt from the municipality. Failure on the part of the commission to file the plan shall not invalidate the plan.

(e) During the period of time when a municipal planning process is confirmed:

(1) The municipality's plan will not be subject to review by the commissioner of department of economic, housing and community development under section 4351 of this title.

(2) State agency plans adopted under chapter 67 of Title 3 shall be compatible with the municipality's approved plan. ~~This provision shall not apply to plans that are conditionally approved under this chapter.~~

(3) The municipality may levy impact fees on new development within its borders, according to the provisions of chapter 131 of this title.

(4) The municipality shall be eligible to receive additional funds from the municipal and regional planning fund.

(f) Confirmation and approval decisions under this section shall be made by majority vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission.

* * *

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

* * *

(11) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

* * *

§ 4387. READOPTION OF PLANS

(a) All plans, including all prior amendments, shall expire every five years unless they are readopted according to the procedures in ~~section~~ sections 4384 and 4385 of this title.

(b)(1) A municipality may readopt any plan that has expired or is about to expire. Prior to any readoption, the planning commission shall ~~review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the plan~~ prepare an assessment report which shall be a part of the readopted municipal plan and shall detail the continuing applicability of the municipal plan. The assessment report shall include:

(A) the extent to which the plan has been implemented since adoption or readoption;

(B) an evaluation of the goals and policies and any amendments necessary due to changing conditions of the municipality;

(C) an evaluation of the land use element and any amendments necessary to reflect changes in land use within the municipality or changes to municipal goals and policies;

(D) priorities for implementation in the next five years; and

(E) updates to information and data necessary to support goals and policies.

(2) The readopted plan shall remain in effect for the ensuing five years unless earlier readopted. A municipality may amend any section of a plan at any time within five years prior to expiration in light of new developments and changed conditions affecting the municipality.

(c) Upon the expiration of a plan, all bylaws ~~and~~, capital budgets, and programs then in effect shall remain in effect, but shall not be amended until a plan is in effect.

(d) The fact that a plan has not been approved shall not make it inapplicable, except as specifically provided by this chapter. Bylaws, capital budgets, and programs shall remain in effect, even if the plan has not been approved.

* * *

Sec. 31. REGIONAL DEVELOPMENT CABINETS

(a) The regional planning commission and any regional development corporation providing services within the regional planning commission region shall convene regular meetings of a "regional development cabinet," which shall include representation from the leadership of state and local providers of services within the region in the areas of planning, economic development, workforce training, utilities and physical infrastructure, transportation, and any other service areas as appropriate.

(b) Each regional development cabinet, in coordination with the agency of commerce and community development and municipal leaders as necessary, shall develop regional priorities to coordinate streamlined and efficient delivery of services, and to enable local, regional, and state agencies to better focus resources.

Secs. 32-34. [RESERVED]

* * * Agriculture; Vermont Sustainable Jobs Fund * * *

Sec. 35. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

* * *

(c)(1) Notwithstanding the provisions of subdivision 216(14) of this title, the authority may contribute not more than $1,000,000.00 to the capital of the corporation formed under this section, and the board of directors of the corporation formed under this section shall consist of ~~three members of the authority designated by the authority, the secretary of commerce and community development, and seven members who are not officials or employees of a governmental agency appointed by the governor, with the advice and consent of the senate, for terms of five years, except that the governor shall stagger initial appointments so that the terms of no more than two members expire during a calendar year~~:

(A) the secretary of commerce and community development or his or her designee;

(B) the secretary of agriculture, food and markets or his or her designee;

(C) a director appointed by the governor; and

(D) eight independent directors, no more than two of whom shall be state government employees or officials, and who shall be selected as vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the board created for that purpose.

(2)(A) Each independent director shall serve a term of three years or until his or her earlier resignation.

(B) A director may be reappointed, but no independent director and no director appointed by the governor shall serve for more than three terms.

(C) The director appointed by the governor shall serve at the pleasure of the governor and may be removed at any time with or without cause.

(3) A director of the board who is or is appointed by a state government official or employee shall not be eligible to hold the position of chair, vice chair, secretary, or treasurer of the board.

* * *

Sec. 36. VERMONT SUSTAINABLE JOBS FUND BOARD OF DIRECTORS; TRANSITION

Notwithstanding any other provision of law to the contrary, and notwithstanding any provision of the articles of incorporation or the bylaws of the corporation:

(1) The chair, vice chair, and secretary of the Vermont sustainable jobs fund board of directors as of January 1, 2011 shall constitute an initial nominating committee charged with appointing eight independent directors who shall take office on July 1, 2011.

(2) The initial nominating committee shall appoint each independent director to serve a term of one, two, or three years. Independent director terms shall be staggered so that the terms of no more than three members expire during a calendar year.

(3) The terms of the directors in office on the date of passage of this act shall expire on July 1, 2011.

Sec. 37. REPEAL

Secs. G18 and G19 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) are repealed.

Sec. 38. Sec. G28 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. G28. EFFECTIVE DATES

Secs. G1 through G28 of this act (economic development) shall take effect upon passage~~, except that Secs. G18 and G19 (Vermont sustainable jobs~~

~~(A) Secs. G18 and G19 (Vermont sustainable job fund program) shall take effect upon the cessation of state funding to the program from the general fund~~.

Sec. 39. 6 V.S.A. § 20 is amended to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL LOAN REPAYMENT FUND

(a) There is created a special fund to be known as the Vermont large animal veterinarian educational loan repayment fund that shall be used for the purpose of ensuring a stable and adequate supply of large animal veterinarians ~~throughout~~ in regions of the state as determined by the secretary. The fund shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this section. The money in the fund shall be invested in the same manner as permitted for investment of funds belonging to the state or held in the treasury.

* * *

Sec. 40. 6 V.S.A. chapter 207 is amended to read:

CHAPTER 207. ~~STATE AGENCIES AND STATE FUNDED INSTITUTIONS TO PURCHASE~~ PROMOTION AND MARKETING OF VERMONT FOODS AND PRODUCTS

* * *

§ 4602. GOOD AGRICULTURAL PRACTICES GRANT PROGRAM

1) (a) A good agricultural practices grant program (GAP) is established in the agency of agriculture, food and markets for the purpose of providing matching grant funds to agricultural producers whose markets require them to obtain or maintain GAP certification.

(b) The secretary may award matching grants for capital upgrades that will support Vermont agricultural producers in obtaining GAP certification. The amount of matching funds required by an applicant for a GAP certification grant shall be determined by the secretary.

(c) An applicant may receive no more than 10 percent of the total funds appropriated for the program in a fiscal year.

Sec. 41. 6 V.S.A. § 3319 is added to read:

§ 3319. SKILLED MEAT CUTTER APPRENTICESHIP PROGRAM

2) (a) A skilled meat cutter apprenticeship program is established in the agency of agriculture, food and markets for the purpose of issuing a competitively awarded grant to develop, in consultation with slaughterhouse operators, meat processors, chefs, livestock farmers, and others, an apprenticeship or certificate program or both for the occupation of skilled meat cutter.

(b) The secretary shall make a single grant to the successful applicant for the creation and administration of an employment-based learning program with classroom and on-the-job training components.

Sec. 42. 6 V.S.A. § 4724 is added to chapter 211 to read:

§ 4724. LOCAL FOODS COORDINATOR

3) (a) The position of local food coordinator is established in the agency of agriculture, food and markets for the purpose of assisting Vermont producers to increase their access to commercial markets and institutions, including schools, state and municipal governments, and hospitals.

(b) The duties of the local foods coordinator shall include:

(1) working with institutions, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the agency of agriculture, food and markets, and coordinating with interested parties to create matchmaking opportunities that increase participation in those programs;

(3) working with the department of buildings and general services to encourage the enrollment of state employees in a local community supported agriculture (CSA) organization; and

(4) providing technical support to local communities with their food security efforts.

(c) For purposes of this section, and notwithstanding 29 V.S.A. § 5, the commissioner of buildings and general services and the agency of agriculture, food and markets may authorize the advertisement or solicitation on state property of one or more local CSA organizations, subject to reasonable restrictions collaboratively adopted by the commissioner and the secretary on

the time, manner, and location of such advertisements or solicitations, in order to encourage and enable state employees to enroll in a CSA.

Sec. 43. FARM-TO-PLATE INVESTMENT PROGRAM IMPLEMENTATION

(a)(1) The agency of agriculture, food and markets shall coordinate with the Vermont sustainable jobs fund program established under 10 V.S.A. § 328, stakeholders, and other interested parties, including the agriculture development board, to implement actions necessary to fulfill the goals of the farm-to-plate investment program as established under 10 V.S.A. § 330.

(2) The actions shall be guided by, but not limited to, the strategies outlined in the farm-to-plate strategic plan.

(3) The agency shall develop and maintain a report of the actions undertaken to achieve the goals of the farm-to-plate investment program and the farm-to-plate strategic plan.

(b) The secretary of agriculture, food and markets may contract with a third party to assist the agency with implementation of the program, to track those activities over time, and to develop a report on the progress of the program.

Secs. 44-49. [RESERVED]

Sec. 50. REPORTING

On or before January 15, 2012, the agency of commerce and community development shall coordinate with each agency, department, or outside entity charged with oversight or implementation of a program or policy change in this act and submit in its annual report to the house committees on commerce and economic development and on agriculture, and to the senate committees on economic development, housing and general affairs and on agriculture:

(1) a performance analysis of each program or policy change following passage of this act; and

(2) recommendations for future actions in light of performance relative to the intended outcomes for each program or policy change.

Sec. 51. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-1-1)

Rep. Condon of Colchester, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the

Committee on **Commerce and Economic Development** and when further amended as follows:

First: In Sec. 21, in 10 V.S.A. § 21(c), following the word "fee" by inserting ", not to exceed $2,500.00,"

Second: By adding a Sec. 22 to read:

Sec. 22. EB-5 ENTERPRISE FUND FEE

On or before January 15, 2012, the secretary of commerce and community development shall submit a memorandum to the house committee on ways and means and the senate committee on finance concerning the performance of the EB-5 enterprise fund, including the number of projects and investors served, the amount of the fees imposed and collected, and recommendations concerning the EB-5 enterprise fund and the appropriate fee structure for the program.

Third: By striking Sec. 50 in its entirety and adding a new Sec. 50 to read:

Sec. 50. REPORTING

On or before January 15, 2012, the agency of commerce and community development shall coordinate with each agency, department, or outside entity charged with oversight or implementation of a program or policy change in this act and submit in its annual report to the house committees on commerce and economic development and on agriculture, and to the senate committees on economic development, housing and general affairs and on agriculture:

(1) a performance analysis of each program or policy change following passage of this act;

(2) an analysis of the number of private sector jobs created as a result of each program or policy in this act that has a direct financial impact to the state;

(3) an analysis of each program or policy in this act and the proportion of opportunities distributed to each gender; and

(4) recommendations for future actions in light of performance relative to the intended outcomes for each program or policy change.

(Committee Vote: 10-0-1)

H. 420

An act relating to the office of professional regulation

Rep. Evans of Essex, for the Committee on **Government Operations,** recommends the bill be amended as follows:

First: After Sec. 11, by adding a new section to be Sec. 11a to read:

Sec. 11a. 26 V.S.A. chapter 67 is amended to read:

CHAPTER 67. HEARING AID DISPENSERS

* * *

Subchapter 2. Administration

§ 3287. ADVISOR APPOINTEES

(a) The secretary shall appoint three licensed hearing aid dispensers and one member of the public to serve as advisors in matters related to hearing aid dispensers. ~~One~~ Of the licensed hearing aid dispensers, one member shall be an otolaryngologist; one shall be an audiologist; and one shall be a hearing aid dispenser who is neither an otolaryngologist nor an audiologist. ~~They~~ The public member shall be an individual with significant hearing impairment who uses a hearing aid regularly. The members shall be appointed as set forth in 3 V.S.A. § 129b and shall serve at the pleasure of the secretary.

(b) The director shall seek the advice of the ~~hearing aid dispensers~~ advisors appointed under this section in carrying out the provisions of this chapter. Such members shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

* * *

Second: In Sec. 12, section 3322, by striking subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

§ 3322. USE OF LICENSE NUMBER

(a) Each licensee or registrant shall be assigned a license or registration number which shall be used in a report, a contract, engagement letter, or other instrument used by the licensee or registrant in connection with the licensee's or registrant's activities under this chapter~~, and the~~. The licensed appraiser shall ensure that the registration number and the appraiser's fee for appraisal services shall appear adjacent to or immediately below the appraisal management company's registered name on documents supplied to clients or customers in this state.

(Committee Vote: 10-0-1)

For Informational Purposes

Resolution to be Introduced

J.R.S. 20.

By Senator Nitka,

J.R.S. 20. Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and four Justices of the Supreme Court, three Judges of the Superior Court, and seven Judges of the District Court.

Whereas, declarations have been submitted by the following justices and judges that they be retained for another six-year term, the Honorable Justice Reiber, Justice Burgess, Justice Dooley, Justice Johnson, Justice Skoglund, Judge Bent, Judge Corsones, Judge Wesley, Judge Devine, Judge DiMauro, Judge Eaton, Judge Keller, Judge Kupersmith, Judge Levitt and Judge Rainville, and

Whereas, the procedures of the Joint Committee on Judicial Retention require at least two public hearings and the review of information provided by each judge and the comments of members of the Vermont bar and the public, and

Whereas, the Committee anticipates that it will be unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the judges seeking to be retained in office by March 10, 2011, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 17, 2011, the date specified in subsection 10(b) of Title 2, and

Whereas, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 24, 2011, at nine o'clock and thirty minutes in the forenoon to vote on the retention of a Chief Justice and four Associate Justices of the Supreme Court, three Superior Court Judges, and seven District Court Judges. In case the vote to retain said Justices and Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at nine o'clock and thirty minutes in the forenoon, on each

Amendment to be offered by Rep. French of Shrewsbury to J.R.S. 20

By striking out the following, "Thursday, March 24, 2011, at nine o' clock and thirty minutes in the forenoon" and inserting in lieu thereof the following, "Wednesday, March 30, 2011, at one o' clock in the afternoon."

CROSSOVER DEADLINE

The crossover deadline has been set for **Friday, March 11, 2011.**

This deadline means that reports on any House bills for consideration this year must be reported by the last committee of reference (excluding the committees on Appropriations and Ways and Means), on or before Friday, March 11, 2011, and filed with the Clerk of the House in order that the bills may be placed on the Calendar for Notice the next legislative day.

Bills referred to the committees on Appropriations and Ways and Means must be reported by those committees on or before **Friday, March 18, 2011** and filed with the Clerk of the House.

These deadlines may be waived for any bill, or committee, only with the consent of the Committee on Rules.

Public Hearings

SENATE APPROPRIATIONS COMMITTEE

FY 2012 Budget

ADVOCATES TESTIMONY

On **Tuesday**, **March 22** beginning at **1:30 pm**, the Senate Appropriations Committee will be taking testimony from advocates regarding the Fiscal Year 2012 Budget in the Senate Chamber of the State House. To schedule time before the Committee contact Becky Buck at the Legislative Joint Fiscal Office located at 1 Baldwin Street (phone: 828-5969).

March 31, 2011 - 6:00 - 8:00 PM - House Chamber - Senate Committee on Health and Welfare - S. 57 Health Care Reform