

House Calendar

Friday, April 20, 2012

109th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Action Postponed Until April 20, 2012

Third Reading

S. 115

An act relating to ineffective assistance claims against assigned counsel

Amendment to be offered by Rep. Kilmartin of Newport City to S. 115

Rep. Kilmartin of Newport City moves that the bill be amended by striking Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 13 V.S.A. § 5241 is added to read:

§ 5241. INEFFECTIVE ASSISTANCE CLAIM

No action shall be brought for professional negligence against a criminal defense attorney unless the plaintiff has first successfully prevailed in a claim for post-conviction relief based upon ineffective assistance of counsel in the same matters. Failure to prevail in a claim for post-conviction relief based upon ineffective assistance of counsel shall bar any claim against the attorney based upon the attorney's representation in the same matters.

Senate Proposal of Amendment

H. 503

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

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

Sec. 1. 2 V.S.A. § 64 is amended to read:

§ 64. EMPLOYMENT OF ASSISTANTS; ~~TRAFFIC CONTROL~~; CAPITOL POLICE; TRAINING; UNIFORMS AND EQUIPMENT

* * *

(c) ~~The sergeant at arms may employ a traffic control officer whose duties shall include, but not be limited to, overseeing necessary security measures and the control of traffic about the capitol building. The traffic control officer shall be an exempt state employee. The sergeant at arms with the approval of the joint rules committee shall fix the terms and compensation of the traffic control~~

~~officer, who shall be entitled to receive the same annual salary adjustments available to classified employees in comparable salary ranges. At state expense and with the approval of the sergeant at arms, the traffic control officer and capitol police officers shall be provided with training, and furnished uniforms and equipment necessary in the performance of their duties, and such items shall remain the property of the state.~~

Sec. 2. 2 V.S.A. § 70 is amended to read:

§ 70. CAPITOL POLICE DEPARTMENT

(a) Creation. A capitol police department is created within the office of the sergeant at arms. The sergeant at arms shall appoint and may remove, at his or her pleasure, individuals as capitol police officers, one of whom shall be appointed to serve as chief. All such positions shall be exempt state employees. ~~The traffic control officer and any other employee of the sergeant at arms may, in addition to other positions and duties, be appointed as a capitol police officer.~~ The chief shall supervise the officer force under the direction of the sergeant at arms. Such appointments and all oaths or affirmations shall be in writing and filed with the sergeant at arms. An officer shall also serve as a deputy sergeant at arms and as a notary public pursuant to 24 V.S.A. § 442.

(b) Powers; training.

(1) Capitol police officers shall have all the same powers and authority as sheriffs and other law enforcement officers anywhere in the state, which shall include the authority to arrest persons and enforce the civil and criminal laws, keep the peace, provide security, and to serve civil and criminal process. For this purpose, capitol police officers shall subscribe to the same oaths required for sheriffs.

~~(2) Capitol police officers who are not certified in either the full time or part time certification program of the Vermont criminal justice training council (VCJTC) shall meet qualification and certification standards prescribed by the sergeant at arms in consultation with the executive director of the VCJTC. In setting the standards, the sergeant at arms shall consider the part time certification program provided to other law enforcement officers by the VCJTC.~~

~~(3) As an alternative, in the sole discretion of the sergeant at arms, capitol police officers shall be certified pursuant to the part time certification program of the VCJTC.~~

~~(4) The VCJTC shall make training available to capitol police officers at no expense to the sergeant at arms, and the VCJTC shall certify those officers as capitol police officers if they meet the certification standards set by the~~

~~sergeant at arms, or as a regular law enforcement officer if the requirements of the part time certification program are met, regardless of the number of hours or weeks worked by the capitol police officer.~~

(5) Notwithstanding any other provision of law to the contrary, a capitol police officer shall be a law enforcement officer as if certified by the Vermont criminal justice training council pursuant to the provisions of 20 V.S.A. chapter 151 of Title 20.

(c) Coordination of capitol complex security: The capitol police department shall coordinate security within the state house and assist the commissioner of buildings and general services in providing security and law enforcement services within the capitol complex, as delineated in a memorandum of understanding signed by the commissioner and the sergeant at arms no later than June 30, 2000, and as subsequently amended. In all other areas of the capitol complex, except the space occupied by the supreme court, the security, control of traffic, and coordination of law enforcement activity shall be under the direction of the commissioner of buildings and general services, with which the capitol police department may assist.

Sec. 3. 20 V.S.A. § 2351 is amended to read:

§ 2351. PURPOSE; DEFINITION

In order to promote and protect the health, safety, and welfare of the public, it is in the public interest to provide for the creation of “the Vermont criminal justice training council.” The council is created to encourage and assist municipalities, counties, and governmental agencies of this state in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of recruit and in-service training for law enforcement officers, including members of the department of public safety, capitol police officers, municipal police officers, constables, ~~corrections~~ correctional officers, prosecuting personnel, motor vehicle inspectors, state investigators employed on a full-time basis by the attorney general, fish and game wardens, sheriffs and their deputies who exercise law enforcement powers pursuant to the provisions of ~~sections 311 and 307(a) of Title 24 V.S.A. §§ 307 and 311~~, and railroad police commissioned pursuant to ~~30 V.S.A. chapter 45, subchapter 8~~ 5 V.S.A. chapter 68, subchapter 8. The council shall offer continuing programs of instruction in up-to-date methods of law enforcement and the administration of criminal justice. It is the responsibility of the council to encourage the participation of local governmental units in the program and to aid in the establishment of adequate training facilities.

Sec. 4. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS

(a) Unless waived by the council under standards adopted by rule, and notwithstanding any statute or charter to the contrary, no person shall exercise law enforcement authority:

(1) as a part-time law enforcement officer without completing a basic training course within a time prescribed by rule of the council; or

(2) as a full-time law enforcement officer without either:

(A) completing a basic training course in the time and manner prescribed by the council; or

(B) having received, before July 1, 1968, permanent full-time appointment as a law enforcement officer, and completing a basic training course before July 1, 1982.

(3) as a full or part-time law enforcement officer without completing annual in-service training requirements as prescribed by the council.

(b) All programs required by this section shall be approved by the council. Completion of a program shall be established by a certificate to that effect signed by the executive director of the council.

(c) For the purposes of this section:

(1) "Law enforcement officer" means a member of the department of public safety who exercises law enforcement powers, a member of the state police, a capitol police officer, a municipal police officer, a constable who exercises law enforcement powers, a motor vehicle inspector, an employee of the department of liquor control who exercises law enforcement powers, an investigator employed by the secretary of state, board of medical practice investigators employed by the department of health, attorney general, or a state's attorney, a fish and game warden, a sheriff, or deputy sheriff who exercises law enforcement powers, or a railroad police officer commissioned pursuant to ~~30 V.S.A. chapter 45, subchapter 8~~ 5 V.S.A. chapter 68, subchapter 8.

(2) "Full-time law enforcement officer" means a law enforcement officer with duties of a predictable and continuing nature which require more than 32 hours per week and more than 25 weeks per year.

(3) "Part-time law enforcement officer" means a law enforcement officer who is not employed full time.

(d) The council may determine whether a particular position is full-time or part-time. Any requirements in this section shall be optional for any elected official.

Sec. 5. Sec. 13 of No. 195 of the 2007 Adj. Sess. (2008), as amended by Sec. 11 of No. 108 of the Acts of the 2009 Adj. Sess. (2010), is amended to read:

Sec. 13. EFFECTIVE DATE

Secs. 8 and 9 of this act shall take effect on ~~July 1, 2012~~ July 1, 2013.

Sec. 6. REPORT

On or before December 15, 2012, the law enforcement advisory board, in consultation with the criminal justice training council, shall report to the senate and house committees on judiciary and on government operations recommendations for how constables may be certified as law enforcement officers as required by Sec. 5 of this act. The report shall include recommendations for how constables may complete the program's field training officer program.

Sec. 7. INTERIM STUDY OF LEGISLATIVE PARKING

(a) Creation of committee. There is created an interim study of legislative parking to study the issue of parking space availability as it affects members of the general assembly.

(b) Membership. The study shall be conducted by the sergeant at arms, the commissioner of buildings and general services, and the operations manager of the legislative council in consultation with members of senate and house leadership.

(c) Powers and duties. The study shall:

(1) evaluate the available parking spaces available within and around the capitol complex and, in particular, the parking spaces available for members of the general assembly;

(2) survey members of the 2011–2012 general assembly on whether there should be assigned parking spaces and, if so, the best manner in making those assignments;

(3) consider whether it is feasible to reserve 180 parking spaces for the exclusive use of members of the general assembly, taking into consideration:

(A) how those parking spaces would be allotted, such as by lottery or by seniority;

(B) the preservation of parking spaces for members who are reelected to the 2013–2014 general assembly and who currently have a parking space reserved due to having a special need, holding a leadership position, or for other circumstances; and

(C) the impact the reservations would have upon the remaining spaces currently available for capitol police, legislative staff, and others.

(d) Report. By January 15, 2013, the committee shall report to the general assembly its findings and any recommendations for change from current practice.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(No House Amendments)

NEW BUSINESS

Third Reading

H. 794

An act relating to the management of search and rescue operations

S. 223

An act relating to health insurance coverage for early childhood development disorders, including autism spectrum disorders

Favorable with Amendment

S. 189

An act relating to expanding confidentiality of cases accepted by the court diversion project

Rep. Reis of St. Johnsbury, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 164(c)(1) is amended to read:

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

(1) The diversion project shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The state's attorney shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. If the prosecuting attorney refers a case to diversion, the ~~information and affidavit~~ prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the

court, the state's attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the board declines to accept the case;
- (B) the person declines to participate in diversion; ~~or~~
- (C) the board accepts the case, but the person does not successfully complete diversion;
- (D) the state's attorney recalls the referral to diversion.

Sec. 2. 3 V.S.A. § 164a is added to read:

§ 164a. RESTITUTION

(a) A diversion program may refer an individual who has suffered a pecuniary loss as a direct result of a delinquent act or crime alleged to have been committed by a juvenile or adult accepted to its program to the restitution unit established by 13 V.S.A. § 5362 for the purpose of application for an advance payment pursuant to 13 V.S.A. § 5363(d)(1). The restitution unit may enter into a repayment contract with a juvenile or adult accepted into diversion and shall have the authority to bring a civil action to enforce the repayment contract in the event that the juvenile or adult defaults in performing the terms of the contract.

(b) The restitution unit and the diversion program shall develop a process for documenting victim loss, information sharing between the unit and diversion programs regarding the amount of restitution paid by the unit and diversion participants' contractual agreements to reimburse the unit, transmittal of payments from participants to the unit, and maintenance of the confidentiality of diversion information.

Sec. 3. 13 V.S.A. § 5362 is amended to read:

§ 5362. RESTITUTION UNIT

* * *

(c) The restitution unit shall have the authority to:

* * *

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

Sec. 4. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIMS' RESTITUTION SPECIAL FUND

(a) There is hereby established in the state treasury a fund to be known as the crime victims' restitution special fund, to be administered by the restitution unit established by section 5362 of this title, and from which payments may be made to provide restitution to crime victims.

(b)(1) There shall be deposited into the fund:

(A) All monies collected by the restitution unit pursuant to section 7043 and subdivision 5362(c)(7) of this title.

(B) All fees imposed by the clerk of court and designated for deposit into the fund pursuant to section 7282 of this title.

(C) All monies donated to the restitution unit or the crime victims' restitution special fund.

(D) Such sums as may be appropriated to the fund by the general assembly.

* * *

(d)(1) The restitution unit is authorized to advance up to \$10,000.00 to a victim or to a deceased victim's heir or legal representative if the victim:

(A) was first ordered by the court to receive restitution on or after July 1, 2004;

(B) is a natural person or the natural person's legal representative; and

(C) has not been reimbursed under subdivision (2) of this subsection;

(D) is a natural person and has been referred to the restitution unit by a diversion program pursuant to 3 V.S.A. § 164a.

* * *

Sec. 5. 13 V.S.A. § 7043(n) is amended to read:

(n) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure of an offender aged 18 or older shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

Sec. 6. 13 V.S.A. § 5360 is added to read:

§ 5360. APPLICATION INFORMATION; CONFIDENTIALITY

(a) All documents reviewed by the victims' compensation board for purposes of approving an application for compensation shall be confidential and shall not be disclosed without the consent of the victim except as provided in this section and subsection 7043(c) of this title.

(b) For the purpose of requesting restitution, the amount of assistance provided by the victim's compensation board shall be established by copies of bills submitted to the victim's compensation board reflecting the amount paid by the board and stating that the services for which payment was made were for uninsured pecuniary losses.

(c) The following shall be confidential and shall be redacted by the victim's compensation board for any purpose including restitution: the victim's residential address, telephone number, and other contact information and the victim's social security number. In cases involving stalking, sexual offense, and domestic violence, the following information shall also be confidential and shall not be disclosed by the victim's compensation board for any purpose including restitution:

(1) the victim's employer's name, telephone number, address, or any other contact information; and

(2) the victim's medical or mental health provider's name, telephone number, address, or any other contact information.

Sec. 7. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

* * *

(b)(1) When ordered, restitution may include:

(A) return of property wrongfully taken from the victim;

(B) cash, credit card, or installment payments paid to the restitution unit; or

(C) payments in kind, if acceptable to the victim.

(2) In the event of a victim's crime-related death, the court may, at the request of the restitution unit, direct the unit to pay up to \$10,000.00 from the restitution fund to the victim's estate to cover future uninsured material losses caused by the death.

(c) Restitution hearing.

(1) Unless the amount of restitution is agreed to by the parties at the time of sentencing, the court shall set the matter for a restitution hearing.

(2) Prior to the date of the hearing, the state's attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the victim's compensation fund, the state's attorney shall provide the defendant with copies of bills submitted by the victim's compensation board pursuant to section 5360 of this title.

(3) Absent consent of the victim, medical and mental health records submitted to the victim's compensation board shall not be discoverable for the purposes of restitution except by order of the court. If the defendant files a motion to view copies of such records, the state's attorney shall file the records with the court under seal. The court shall conduct an in camera review of the records to determine what records, if any, are relevant to the parties' dispute with respect to restitution. If the court orders disclosure of the documents, the court shall issue a protective order defining the extent of dissemination of the documents to any person other than the defendant, the defendant's attorney, and the state's attorney. In no event shall the court permit disclosure of information in a document provided by the victim's compensation board that is confidential under subsection 5360(c) of this title.

~~(e)~~(d) In awarding restitution, the court shall make findings with respect to:

(1) The total amount of the material loss incurred by the victim. If sufficient documentation of the material loss is not available at the time of sentencing, the court shall set a hearing on the issue, and notice thereof shall be provided to the offender.

(2) The offender's current ability to pay restitution, based on all financial information available to the court, including information provided by the offender.

~~(d)~~(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the court shall establish a restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection (k) of this section. Notwithstanding 12 V.S.A. chapter 113 ~~of Title 12~~ or any other provision of law, interest shall not accrue on a restitution judgment.

* * *

~~(e)~~(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to preapproved furlough, probation, or supervised community sentence, or is

sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.

* * *

~~(f)~~(g)(1) When restitution is requested but not ordered, the court shall set forth on the record its reasons for not ordering restitution.

* * *

~~(g)~~(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

~~(h)~~(i)(1) The court shall transmit a copy of a restitution order to the restitution unit, which shall make payment to the victim in accordance with section 5363 of this title.

* * *

~~(i)~~(j) The restitution unit may bring an action, including a small claims procedure, to enforce a restitution order against an offender in the civil division of the superior court of the unit where the offender resides or in the unit where the order was issued. In an action under this subsection, a restitution order issued by the criminal division of the superior court shall be enforceable in the civil division of the superior court or in a small claims procedure in the same manner as a civil judgment. Superior and small claims filing fees shall be waived for an action under this subsection, and for an action to renew a restitution judgment.

~~(j)~~(k) All restitution payments shall be made to the restitution unit, with the exception of restitution relating to a conviction for welfare fraud ordered under this section and recouped by the economic services division. The economic services division shall provide the restitution unit with a monthly report of all restitution collected through recoupment. This subsection shall have no effect upon the collection or recoupment of restitution ordered under Title 33.

~~(k)~~(l) The sentencing court may modify the payment schedule of a restitution order if, upon motion by the restitution unit or the offender, the court finds that modification is warranted by a substantial change in circumstances.

~~(l)~~(m) If the offender fails to pay restitution as ordered by the court, the restitution unit may file an action to enforce the restitution order in superior or small claims court. After an enforcement action is filed, any further proceedings related to the action shall be heard in the court where it was filed.

The court shall set the matter for hearing and shall provide notice to the restitution unit, the victim, and the offender. If the court determines the offender has failed to comply with the restitution order, the court may take any action the court deems necessary to ensure the offender will make the required restitution payment, including:

* * *

~~(m)~~(n)(1) Any monies owed by the state to an offender who is under a restitution order, including lottery winnings and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

* * *

~~(n)~~(o) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

~~(o)~~(p) An obligation to pay restitution is part of a criminal sentence and is:

* * *

~~(p)~~(q) A transfer of property made with the intent to avoid a restitution obligation shall be deemed a fraudulent conveyance for purposes of 9 V.S.A. chapter 57 of Title 9, and the restitution unit shall be entitled to the remedies of creditors provided under 9 V.S.A. § 2291.

Sec. 8. 1 V.S.A. § 317 is amended to read:

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

* * *

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

* * *

(40) ~~Records~~ records of genealogy provided in support of an application for tribal recognition pursuant to chapter 23 of this title;

(41) documents reviewed by the victim's compensation board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ 5360 and 7043(c).

Sec. 9. EFFECTIVE DATE

(a) Sections 1, 2, 3, 4, and 5 shall take effect on July 1, 2012.

(b) Sections 6, 7, 8, and this section shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/1/2012)

Favorable

H. 792

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

Rep. Atkins of Winooski, for the Committee on **Government Operations**, recommends the bill ought to pass.

(Committee Vote: 9-0-2)

H. 793

An act relating to approval of amendments to the charter of the Winooski incorporated school district

Rep. Atkins of Winooski, for the Committee on **Government Operations**, recommends the bill ought to pass.

(Committee Vote: 9-0-2)

Senate Proposal of Amendment

H. 758

An act relating to divorce and dissolution proceedings

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 4, 15 V.S.A. § 1206, in subdivision (d)(1), after the words "parties to a civil union" by adding the words certified in Vermont

Second: In Sec. 5, 18 V.S.A. § 5131, in subdivision (a)(4)(A), in the first sentence, by striking the word "solemnized" and inserting in lieu thereof the word certified

Third: By adding Sec. 5a to read as follows:

Sec. 5a. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(b)(2) Prior to the entry of any divorce or annulment proceeding in the superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$250.00 in lieu of all other fees not otherwise set forth in this section; ~~however, if~~. If the divorce or annulment complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be \$75.00 if one or both of the parties are residents, and \$150.00 if neither party is a resident.

* * *

(No House Amendments)

H. 759

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 175 is amended to read:

CHAPTER 175. THE BOARD OF MENTAL HEALTH

* * *

§ 7304. PERSONS NOT HOSPITALIZED OR RESIDING IN A SECURE RESIDENTIAL RECOVERY FACILITY

The board shall have general jurisdiction of the mentally retarded and the mentally ill who have been discharged from a hospital, secure residential recovery facility, or training school by authority of the board. It shall also have jurisdiction of the mentally ill and mentally retarded of the state ~~not~~, who are neither hospitalized nor residing in a secure residential recovery facility so far as concerns their physical and mental condition and their care, management, and medical treatment and shall make such orders therein as each case duly brought to its attention requires.

§ 7305. POWERS OF BOARD

The board may administer oaths, summon witnesses before it in a case under investigation, and discharge by its order, in writing, any person confined as a patient in a hospital or in a secure residential recovery facility whom it finds on investigation to be wrongfully hospitalized or residing in a secure residential recovery facility or in a condition to warrant discharge. The board shall discharge patients, not criminals, who have eloped from a hospital or secure residential recovery facility and have not been apprehended at the

expiration of six months from the time of their elopement. The board shall not order the discharge of a patient without giving the superintendent of the hospital or secure residential recovery facility an opportunity to be heard.

§ 7309. REFERRALS FROM GOVERNOR

The governor may refer the case of a patient in a hospital or secure residential recovery facility to the board for its investigation. The board shall investigate the case and by its order grant such relief as each case requires. If the board is without power to grant the necessary relief it shall cause proceedings to be commenced in a court of competent jurisdiction at the expense of the state, in order to obtain the necessary relief and promote the ends of justice and humanity.

§ 7310. PETITION FOR INQUIRY

The attorney or guardian of a patient or any other interested party may apply to the board to inquire into the treatment and hospitalization or placement at a secure residential recovery facility of a patient, and the board shall take appropriate action upon the application.

§ 7311. INVESTIGATION

If, in the judgment of the board, an investigation is necessary, it shall appoint a time and place for hearing and give the patient's attorney, guardian and spouse, parent or adult child or interested party, if any, in that order, and the head of the hospital or secure residential recovery facility reasonable notice thereof. At the time appointed it shall conduct a hearing and make any lawful order the case requires.

* * *

§ 7313. BOARD SHALL VISIT INSTITUTION

The board shall ascertain by examination and inquiry whether the laws relating to individuals in custody or control are properly observed and may use all necessary means to collect all desired information. It shall carefully inspect every part of the hospital, secure residential recovery facility, or training school visited with reference to its cleanliness and sanitary condition, determine the number of patients or students in seclusion or restraint, the diet of the patients or students and any other matters which it considers material. It shall offer to every patient or student an opportunity for an interview with its visiting members or agents, and shall investigate those cases which in its judgment require special investigation, and particularly shall ascertain whether any individuals are retained at any hospital, secure residential recovery facility, or training school who ought to be discharged.

* * *

§ 7315. DEFINITION

As used in this chapter, the term “secure residential recovery facility” shall be defined as in subsection 7620(e) of this title.

Second: In Sec. 3, 18 V.S.A. § 7620, subsection (e), by striking out “§ 7102(11)” and inserting in lieu thereof § 7102

(For text see House Journal 3/20/2012)

H. 770

An act relating to the state’s transportation program

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

Sec. 1. TRANSPORTATION PROGRAM

(a) The state’s proposed fiscal year 2013 transportation program appended to the agency of transportation’s proposed fiscal year 2013 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

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

(1) “Agency” means the agency of transportation.

(2) “Secretary” means the secretary of transportation.

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

(4) “TIB funds” or “TIB” refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f.

* * * Program Development Funding Sources * * *

Sec. 2. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified as follows:

(1) Among eligible projects selected in the secretary’s discretion, the secretary shall reduce project spending authority in the total amount of \$502,437.00 in transportation funds and \$25,000.00 in federal funds, and increase project spending authority in the total amount of \$484,745.00 in TIB funds.

* * * Program Development – Paving * * *

Sec. 3. PORTABLE HOT MIX PLANT

(a) A new project is added to the development and evaluation list of the program development – paving program within the fiscal year 2013 transportation program for the acquisition of a portable hot mix plant.

(b) As soon as practicable, the secretary shall study the feasibility and evaluate the costs and benefits of acquiring a portable hot mix plant, and necessary associated equipment, for use on paving projects throughout the state.

(c) If the secretary determines that use of a portable hot mix plant for paving projects is feasible and that the cost savings expected to result from its acquisition are projected to exceed the capital and operating costs of the plant, the secretary may spend transportation funds and, if eligible for federal funding, federal funds, totaling up to \$4,000,000.00 from within the fiscal year 2013 program development appropriation (8100001100) for acquisition of the portable hot mix plant and necessary associated equipment, provided that such expenditure does not delay other programmed expenditures.

(d) Prior to any acquisition under the authority of subsection (c) of this section, the secretary shall notify the house and senate committees on transportation if the general assembly is in session, and if not in session, the joint transportation oversight committee, of his or her intention to take such action.

* * * Program Development – Roadway * * *

Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

(a) The following project is added to the development and evaluation list of the program development – roadway program within the fiscal year 2012 transportation program:

CIRC Alternatives – Phase 1 Alternative Projects.

(b) In light of the destruction caused by Tropical Storm Irene to the village of Waterbury, and the plans to reconstruct portions of the Waterbury Complex in the village, the agency of transportation shall review existing plans for the Waterbury – Reconstruct Main Street project (FEGC F 013-4(13)) as soon as is practicable:

(1) to ensure that project infrastructure will be resilient in the event of future flooding;

(2) to ensure, if feasible, that construction of the project is coordinated with Waterbury Complex reconstruction activities so as to minimize disruption

to and impacts on residents and road users, and to maximize potential cost savings; and

(3) to determine whether the project plans need to be updated in light of the damage caused by Tropical Storm Irene and the planned configuration of the Waterbury Complex.

*** Program Development – State Highway Bridge ***

Sec. 5. PROGRAM DEVELOPMENT – STATE HIGHWAY BRIDGE

(a) The STP SCTT(1) – Townshend – State-owned Historic Sites – Scott Covered Bridge project is added to the fiscal year 2013 transportation program – program development – state highway bridge development and evaluation (D&E) list.

(b) Funds may be expended on the project as necessary from authorized statewide – state highway bridges D&E spending, provided the expenditure does not delay other programmed D&E expenditures.

*** Vermont Local Roads ***

Sec. 6. TOWN HIGHWAY VERMONT LOCAL ROADS

Authorized spending on the Vermont local roads program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	375,000	400,000	25,000
Total	375,000	400,000	25,000
<u>Sources of funds</u>			
State	235,000	235,000	0
Federal	140,000	165,000	25,000
Total	375,000	400,000	25,000

*** State Aid for Federal and Nonfederal Disasters ***

Sec. 7. STATE AID FOR NONFEDERAL DISASTERS

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	4,750,000	1,150,000	-3,600,000
Total	4,750,000	1,150,000	-3,600,000
<u>Sources of funds</u>			
State	1,550,000	1,150,000	-400,000
Federal	3,200,000	0	-3,200,000
Total	4,750,000	1,150,000	-3,600,000

Sec. 8. STATE AID FOR FEDERAL DISASTERS

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	0	3,600,000	3,600,000
Total	0	3,600,000	3,600,000
<u>Sources of funds</u>			
State	0	400,000	400,000
Federal	0	3,200,000	3,200,000
Total	0	3,600,000	3,600,000

Sec. 9. TOWN HIGHWAY STRUCTURES

Authorized spending on the town highway structures program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	5,833,500	6,333,500	500,000
Total	5,833,500	6,333,500	500,000
<u>Sources of funds</u>			
State	5,833,500	6,333,500	500,000
Federal	0	0	0
Total	5,833,500	6,333,500	500,000

Sec. 10. TOWN HIGHWAY AID

Authorized spending on the town highway aid program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	26,482,744	25,982,744	-500,000
Total	26,482,744	25,982,744	-500,000
<u>Sources of funds</u>			
State	26,482,744	25,982,744	-500,000
Federal	0	0	0
Total	26,482,744	25,982,744	-500,000

* * * Rail * * *

Sec. 11. RAIL

The following modifications are made to the rail program:

(1) The “Rutland–Burlington crossings project” is renamed the “Rutland–Burlington rail and crossings project,” and the scope of the project is amended to include the installation of continuously welded rail.

(2) Spending authority for the Pittsford Bridge 219 project (HPP ABRB(9)) is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	6,600,000	1,500,000	-5,100,000
Total	6,600,000	1,500,000	-5,100,000
<u>Sources of funds</u>			
State	0	0	0
TIB	1,320,000	300,000	-1,020,000
Federal	5,280,000	1,200,000	-4,080,000
Local	0	0	0
Total	6,600,000	1,500,000	-5,100,000

(3) Spending authority for the Rutland–Burlington rail and crossings project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	600,000	600,000	0
Construction	900,000	6,000,000	5,100,000
Total	1,500,000	6,600,000	5,100,000
<u>Sources of funds</u>			
State	300,000	300,000	0
TIB	0	1,020,000	1,020,000
Federal	1,200,000	5,280,000	4,080,000
Local	0	0	0
Total	1,500,000	6,600,000	5,100,000

Sec. 12. RUTLAND–BURLINGTON RAIL AND CROSSINGS PROJECT

The “Rutland–Burlington rail and crossings project” is added to the fiscal year 2012 transportation program – rail program. The project includes the installation of continuously welded rail and the reconstruction of several rail-highway grade crossings along the Vermont Railway line between Rutland and Burlington.

Sec. 13. PURCHASE OF RAIL BRIDGE INSPECTION VEHICLE

(a) A new project is added to the fiscal year 2012 and 2013 transportation program – rail programs for the purchase of a servi-lift rail bridge inspection vehicle (“inspection vehicle”).

(b) Notwithstanding the authorized program spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to purchase an inspection vehicle using any federal grant funds received for its purchase.

(c) If a federal grant for the purchase of the inspection vehicle is not received or is not pending, notwithstanding the authorized project or activity

spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to use up to a total of \$500,000.00 in transportation funds appropriated to the rail program for the purchase of the inspection vehicle, provided that the purchase does not delay the work schedule of a project or activity programmed in the fiscal year 2012 or 2013 rail programs.

(d) The agency shall promptly report any action taken under the authority granted in subsection (b) or (c) of this section to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

Sec. 14. ANTICIPATION OF FEDERAL RECEIPTS – RAIL PROGRAM

As authorized by 32 V.S.A. § 510, the secretary, with the prior approval of the commissioner of finance and management, may anticipate federal receipts into the transportation – rail program.

* * * Transportation Buildings * * *

Sec. 15. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Spending authority for the Mendon District 3/Southwest Regional Construction Office Building project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	50,000	0	-50,000
Construction	150,000	0	-150,000
Total	200,000	0	-200,000
<u>Sources of funds</u>			
State	200,000	0	-200,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	200,000	0	-200,000

(2) Spending authority for the Statewide – Brine-Making Facilities project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	3,000	3,000	0
Construction	0	80,000	80,000
Total	3,000	83,000	80,000

Sources of funds

State	3,000	83,000	80,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	3,000	83,000	80,000

(3) Spending authority for the Middlebury – Design, Permit, and Construct 1–Bay Addition project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	5,000	0	-5,000
Construction	175,000	0	-175,000
Total	180,000	0	-180,000

Sources of funds

State	180,000	0	-180,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	180,000	0	-180,000

Sec. 16. VTRANS TRAINING CENTER FACILITY; PROGRAM NAME

(1) The “VTrans Learning Campus” project within the fiscal year 2013 transportation buildings program is renamed the “VTrans Training Center” project, and the scope of the project is amended to read, “Renovation of existing materials & research building for use by the VTrans Training Center and the traffic research section.”

(2) The agency shall rename the VTrans Learning Campus program to be the VTrans Training Center program.

* * * Public Transit * * *

Sec. 17. PUBLIC TRANSIT

The scope of the Public Transit – Statewide Capital project is amended to include the construction of transit facilities.

Sec. 18. 24 V.S.A. § 5094 is added to read:

§ 5094. POWERS OF SECRETARY OF TRANSPORTATION

On behalf of the state and to carry out the purposes of this chapter and 19 V.S.A. § 10f, the secretary of transportation may:

(1) Execute and file an application with the Federal Transit Administration for federal assistance authorized by Titles 23 and 49 of the United States Code or other federal law.

(2) Execute and file certifications, assurances, or other documents the Federal Transit Administration may require before awarding a federal assistance grant or cooperative agreement.

(3) Execute grant and cooperative agreements with the Federal Transit Administration.

* * * Fiscal Year 2013 Transportation Infrastructure Bonds * * *

Sec. 19. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

Pursuant to 32 V.S.A. § 972, the state treasurer is authorized to issue transportation infrastructure bonds up to a total amount of \$11,500,000.00 for the purpose of funding:

(1) the spending authorized in Sec. 20 of this act;

(2) a debt service reserve to support the successful issuance of transportation infrastructure bonds; and

(3) the cost of preparing, issuing, and marketing the bonds as authorized under 32 V.S.A. § 975.

Sec. 20. TRANSPORTATION INFRASTRUCTURE BONDS; SPENDING AUTHORITY

The amount of \$10,000,000.00 from the issuance of transportation infrastructure bonds is authorized for expenditure in fiscal year 2013 on eligible projects as defined in 32 V.S.A. § 972(d) in the state's fiscal year 2013 transportation program as follows:

(1) \$9,000,000.00 on projects in program development.

(2) \$1,000,000.00 on projects in the town highway bridge program.

* * * Agency of Transportation Positions * * *

Sec. 21. AGENCY OF TRANSPORTATION POSITIONS

(a) The agency may establish 17 new limited service positions related to the response to Tropical Storm Irene and the spring 2011 flooding. This authority shall expire on June 30, 2014, and the positions shall terminate by June 30, 2014.

(b) The establishment of three new permanent classified positions is authorized in the agency of transportation – rail program.

(c) The establishment of three new permanent classified positions is authorized in the agency of transportation – program development program.

(d) The positions authorized in this section are not subject to the restriction in Sec. A.108 of No. 63 of the Acts of 2011, and are in addition to the positions authorized in Sec. 87(e) of No. 75 of the Acts of the 2011 Adj. Sess. (2012).

* * * Central Garage * * *

Sec. 22. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2013, the amount of \$1,120,000.00 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

* * * Relinquishment of State Highway Segment to Municipal Control * * *

Sec. 23. RELINQUISHMENT OF VERMONT ROUTE 207 EXTENSION IN THE TOWN OF ST. ALBANS

(a) Pursuant to 19 V.S.A. § 15(2), the general assembly approves the secretary of transportation to enter into an agreement with the town of St. Albans to relinquish to the town's jurisdiction a segment of state highway right-of-way in the town of St. Albans which has not been constructed to be a traveled road, and which was to be known as the Vermont Route 207 Extension. This authority shall expire on June 30, 2022. The segment authorized to be relinquished measures approximately 1.7 acres, is approximately 160 feet in width, and starts at a point 200 feet west of the intersection of the U.S. Route 7/Vermont Route 207 centerline of highway project S0297(2), and continues westerly for 463 feet.

(b) Following relinquishment, the former state highway segment shall become a town highway and shall retain its limited access designation under 19 V.S.A. chapter 17 (limited access facilities).

(c) Following relinquishment, the state of Vermont shall retain ownership of the underlying fee interest in the former state highway segment. The town of St. Albans shall not sell or abandon any portion of the relinquishment area or allow any encroachments within the relinquishment area without the written permission of the agency of transportation.

* * * Enhancement Grant Program Priorities * * *

Sec. 24. ENHANCEMENT GRANT PROGRAM PRIORITIES

In addition to the priorities for salt and sand shed projects and bicycle or pedestrian facility projects specified in 19 V.S.A. § 38(g), in evaluating applications for enhancement grants in fiscal years 2013, 2014, and 2015, the

transportation enhancement grant committee shall give preferential weighting to projects involving a municipality implementing eligible environmental mitigation projects under a river corridor plan that has been adopted by the agency of natural resources as part of a basin plan, under a municipal plan adopted pursuant to 24 V.S.A. § 4385, or under a mitigation plan adopted by the municipality and approved by the Federal Emergency Management Agency. The degree of preferential weighting afforded shall be in the complete discretion of the transportation enhancement grant committee.

* * * State Aid for Town Highways * * *

Sec. 25. 19 V.S.A. § 306(e) and (f) are amended to read:

(e) State aid for town highway structures.

(1) There shall be an annual appropriation for grants to municipalities for maintenance, ~~(including actions to extend life expectancy)~~ and for construction of bridges, and culverts, and; for maintenance and construction of other structures, including causeways and retaining walls, intended to preserve the integrity of the traveled portion of class 1, 2, and 3 town highways; and for alternatives that eliminate the need for a bridge, culvert, or other structure, such as the construction or reconstruction of a highway, the purchase of parcels of land that would be landlocked by closure of a bridge, the payment of damages for loss of highway access, and the substitution of other means of access.

(2) Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of \$5,833,500.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects.

(3) Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

(f) ~~{Deleted.}~~ State aid for federal disasters.

(1) Towns receiving assistance under the Federal Highway Administration's emergency relief program for federal-aid highways shall be

eligible for state aid when a nonfederal match is required. Eligibility for aid under this subsection shall be subject to the following criteria:

(A) Towns shall be responsible for up to 10 percent of the total eligible project costs.

(B) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the agency.

(C) Such additional criteria as may be adopted by the agency through rulemaking under 3 V.S.A. chapter 25.

(2) Notwithstanding 32 V.S.A. § 706 and the limits on authorized program spending in an approved transportation program, the secretary may transfer appropriations between the program created in this subsection and the state aid for nonfederal disasters program created in subsection (d) of this section.

* * * Town Highway Bridges; Local Match * * *

Sec. 26. 19 V.S.A. § 309a is amended to read:

§ 309a. LOCAL HIGHWAY WORK; UNIFORM LOCAL SHARE; EXCEPTIONS

(a) Except as provided in subsection (b) or (c) of this section or in sections 309b and 309c of this title, in any case of highway or bridge construction in which a federal/state/local or state/local funding match is authorized, the municipality's share shall be ten percent of the project costs.

(b) This section shall not apply to:

(1) ~~any project phase, preliminary engineering, right-of-way acquisition or construction, which was included in the transportation construction program submitted by the agency in February 1987 and approved by the general assembly in Act No. 91 of the Acts of 1987~~ any bridge replacement project in the town highway bridge program during the construction of which the municipality closes the bridge and does not construct a temporary bridge for the duration of the project, in which event the local match shall cover five percent of the project costs; or

(2) any project phase for which a municipality already has provided for payment of its share by issuing bonds or funding a reserve established under a capital improvement plan; ~~or~~

(3) any project on a town highway for which the general assembly has authorized a different federal/state/local funding match; and any project which serves an “economic growth center” as defined in 23 U.S.C. § 143, and for which the general assembly has authorized a different federal/state/local funding match;

(4) any project involving a bridge, including the approaches to a bridge, that extends between this state and an adjacent state;

(5) any bridge or roadway project involving a local financial share in which the municipality, after its review of the conceptual project plans, chooses not to proceed with the proposed project; in such circumstances, the agency shall pay 100 percent of the project costs incurred through the date it receives such notification from the municipality;

(6) any project where, by the mutual agreement of the municipality and agency, rehabilitation of an existing bridge is the preferred alternative, in which case the agency shall use the appropriate combination of state and federal funding to pay either 95 percent of the cost of rehabilitation, or 97.5 percent if the municipality closes the bridge and does not construct a temporary bridge for the duration of the project; or

(7) any project or portion of a project involving a structure that is part of the historic bridge program, where the agency shall use the appropriate combination of state and federal funding to pay 100 percent of the cost of rehabilitation.

* * *

* * * Tendering Payment in Condemnation Matters * * *

Sec. 27. 19 V.S.A. § 512 is amended to read:

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

(a) Within 30 days after the compensation hearing, the board shall by its order fix the compensation to be paid to each person from whom land or rights are taken. Within 30 days of the board’s order, the agency shall file and record the order in the office of the clerk of the town where the land is situated, deliver to each person a copy of that portion of the order directly affecting the person, and pay or tender the award to each person entitled. If an interested person has not provided the agency identification information necessary to process payment of the award, or if an interested person refuses an offer of

payment, payment shall be deemed to be tendered for the purposes of this subsection when the agency pays the award into an escrow account that is accessible by the interested person upon his or her providing any necessary identification information. A person to whom a compensation award is paid or tendered under this subsection may accept, retain, and dispose of the award to his or her own use without prejudice to the person's right of appeal, as provided in section 513 of this title. Upon the payment or tender of the award as above provided, the agency may proceed with the work for which the land is taken.

* * *

* * * Van Pool Program within State Infrastructure Bank * * *

Sec. 28. REPEAL

10 V.S.A. § 280g(a)(10) and (d) (state infrastructure bank van pool loan program) are repealed.

* * * Elimination, Modification, and Retention of Reports * * *

Sec. 29. ELIMINATION OF REPORTS

10 V.S.A. § 445(b) (report regarding expenditures and income relating to Vermont trails system); 19 V.S.A. § 10e(c) (rail report); 19 V.S.A. § 10g(d)(1) (analysis of state's commitment to transportation projects); 19 V.S.A. § 10g(d)(2) (agency's plan to bring resources and cost into balance); 19 V.S.A. § 317(f) (report regarding the classification, number, and location of historic bridges); 32 V.S.A. § 706(4) (report of transfers of appropriations to cover federally reimbursable construction projects); and Sec. 50 of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 61 of No. 164 of the Acts of the 2007 Adj. Sess. (2008) (report on general condition of town assets in the bridge and culvert database), are repealed.

Sec. 30. 19 V.S.A. § 12b(d) is amended to read:

~~(d)(1) In coordination with the regular meetings of the joint fiscal committee in mid July, mid September, and mid November, the secretary shall prepare a report on the status of the state's transportation finances and transportation programs. If a meeting of the committee is not convened on the scheduled dates of the joint fiscal committee meetings, the secretary in advance shall transmit the report electronically to the joint fiscal office for distribution to committee members. The report shall include a report on contract bid awards versus project estimates and a detailed report on all known or projected cost overruns, project savings, and funding availability from delayed projects; and the agency's actions taken or planned to cover the cost~~

~~overruns and to reallocate the project savings and delayed project funds with respect to:~~

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

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

~~(2) In addition, with respect to the July meeting of the joint fiscal committee, the secretary's report shall discuss the agency's plans to adjust spending to any changes in the consensus forecast for transportation fund revenues. If and when applicable, the secretary shall submit electronically to the joint fiscal office for distribution to members of the joint transportation oversight committee a report summarizing any plans or actions taken to delay project schedules as a result of:~~

~~(1) a generalized increase in bids relative to project estimates;~~

~~(2) changes in the consensus revenue forecast of the transportation fund or transportation infrastructure bond fund; or~~

~~(3) changes in the availability of federal funds.~~

Sec. 31. 23 V.S.A. § 304b(a) is amended to read:

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate ~~and~~, on trucks registered for less than 26,001 pounds, ~~and~~ on vehicles registered to state agencies under section 376 of this title ~~and~~, but excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of \$23.00. The

commissioner ~~shall~~ may adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. ~~The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources and energy a report detailing, over a three year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.~~

Sec. 32. 24 V.S.A. § 5083(b) is amended to read:

(b) ~~The public transit advisory council~~ agency of transportation shall annually evaluate ~~existing services based on the goals established in subsection (a) of this section.~~ Proposals proposals for new public transit service shall be evaluated submitted by providers in response to a notice of funding availability, by examining feasibility studies submitted by providers. These The feasibility studies shall address criteria set forth in the most recent public transit policy plan of January 15, 2000.

Sec. 33. 19 V.S.A. § 42 is added to read:

§ 42. REPORTS PRESERVED

Notwithstanding 2 V.S.A. § 20(d), the reports or reporting requirements of sections 7(k), 10b(d), 10c(k), 10c(l), 10g, 11f(i), 12a, 12b(d), and 38(e)(2) of this title shall be preserved absent specific action by the general assembly repealing the reports or reporting requirements.

Sec. 34. 24 V.S.A. § 5092 is amended to read:

§ 5092. REPORTS

The agency of transportation, in cooperation with the public transit advisory council, shall develop an annual report of financial and performance data of all public transit systems that receive operating subsidies in any form from the state or federal government, including but not limited to subsidies related to the elders and persons with disabilities transportation program for service and capital equipment. Financial and performance data on the elders and persons with disabilities transportation program shall be a separate category in the report. The report shall be modeled on the Federal Transit Administration's national transit database program with such modifications as appropriate for the various services and guidance found in the most current state policy plan. The report shall describe any action taken by the agency pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards. ~~The report~~ agency shall be available deliver the report to the general assembly by January 15 of each year.

Notwithstanding 2 V.S.A. § 20(d), this annual report shall be produced indefinitely absent specific action by the general assembly repealing the report.

* * * Technical Corrections * * *

Sec. 35. 5 V.S.A. § 3403 is amended to read:

§ 3403. ACQUISITION AND MODERNIZATION

(a) The agency of transportation, as agent for the state, and with the specific prior approval of the general assembly, is authorized to acquire by purchase or condemnation, after the approval of the ~~Interstate Commerce Commission~~ Surface Transportation Board, if necessary, any portion or portions of the line of any railroad directly affecting the state, including rails and ties, rights-of-way, land, buildings, appurtenances, and other facilities required for the operation of the line or to facilitate its sale or lease for continued operation. This action may be taken in concert with another state or states as necessary to insure continued railroad service in this state.

* * *

Sec. 36. 5 V.S.A. § 3404 is amended to read:

§ 3404. RIGHT OF FIRST REFUSAL

(a) All railroad operating properties within the state offered for sale by a railroad, other than to another railroad for continued operation, shall also be offered to the state of Vermont. The offer shall be made in writing and shall be sent by certified mail to the agency. The offer shall include a map and a description of the property, the price, if available, a description of the present and past railroad use of the property, and any terms, reservations, or conditions the railroad proposes to include as part of the sale. Within 365 days, less any period of time that has elapsed because of the pendency of abandonment proceedings before the ~~Interstate Commerce Commission~~ Surface Transportation Board or the imposition of public use conditions under 49 U.S.C. § 10905, the agency shall accept or reject the offer. If the agency either rejects or fails to accept the offer in a timely manner, the state's preferential right under this section shall terminate, but in no event shall the railroad offer to sell the property, or any portion of it, to any other person on terms more favorable than the final terms offered to the agency.

* * *

* * * Copies of Municipal Reports * * *

Sec. 37. 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

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

* * * Transportation Funding and Expenditures * * *

Sec. 38. TRAFFIC SAFETY ENFORCEMENT COSTS

The joint fiscal office, in consultation with the commissioner of public safety or designee, shall analyze and estimate the costs incurred by the state in enforcing the state's traffic safety laws, and study how these state police costs could be apportioned between the general fund and the transportation fund. The joint fiscal office shall submit a report of its findings to the joint transportation oversight committee and the joint fiscal committee prior to the joint fiscal committee's November 2012 meeting.

Sec. 39. ALTERNATIVE FUEL VEHICLES; USER PAY PRINCIPLE

The secretary of transportation or designee, in consultation with the commissioner of motor vehicles, commissioner of taxes, and commissioner of public service or their designees, shall analyze options for user fees and fee collection mechanisms for motor vehicles that use energy sources not currently taxed so as to contribute to the transportation fund. The secretary shall submit a report of his or her findings, and of options for user fees and fee collection mechanisms, to the joint transportation oversight committee and the joint fiscal committee prior to the joint fiscal committee's November 2012 meeting.

Sec. 40. COMMISSION ON TRANSPORTATION FUNDING

(a) Findings.

(1) Annual gasoline and diesel tax revenues are currently at the same level generated in 1999–2000, while vehicle miles traveled and consequent wear and tear on the state's highway system has increased by 13.2 percent.

(2) As fuel efficiency continues to improve and vehicles using fuel sources not taxed so as to contribute to the transportation fund become more common, the gap between the payments collected from system users and the wear and tear users impose on the system will continue to grow.

(3) New revenue sources and consistent revenue streams will be needed to sustain Vermont's transportation infrastructure and support economic prosperity.

(b) Composition of commission. A commission composed of three members is established. The speaker of the house, the senate committee on committees, and the governor shall each appoint one member as soon as possible after the effective date of this act. The commission members shall promptly elect a chair.

(c) Purpose and charge. The commission shall:

(1) estimate transportation and TIB fund revenues over a five-year time horizon starting in fiscal year 2014, taking into account motor vehicle fuel efficiency mandates and trends, and identify and analyze factors likely to impact transportation and TIB fund revenues and transportation infrastructure spending in the future;

(2) estimate the gap between costs and projected revenues over the five-year time horizon (the "five-year funding gap") based on the cost of maintaining the state's existing infrastructure, and under any other cost scenario the commission deems appropriate;

(3) evaluate potential new state revenue sources and how existing state revenue sources could optimally be modified to address the five-year and longer term expected transportation funding gaps. The commission shall estimate the amount of funds that would be generated from each new and modified revenue source, and identify implementation structures, requirements, and challenges.

(d) The commission shall deliver a written report of its findings, and of any legislative options for consideration, to the house and senate committees on transportation by January 15, 2013. The commission shall terminate on January 15, 2013.

(e) Assistance. Upon the request of the commission, the agency may contract with consultants to provide expert assistance to the commission. Any consultant fees shall be paid out of the transportation – policy and planning appropriation. Upon request, the commission shall receive administrative support from the agency of transportation and assistance from the joint fiscal office and any unit of the executive branch the commission deems appropriate.

(f) Any commission member who is not a full-time state employee shall be entitled to compensation and reimbursement of expenses as provided in 32 V.S.A. § 1010. Funds disbursed under this subsection shall be paid out of the transportation – policy and planning appropriation.

* * * Vermont Strong Motor Vehicle Plates * * *

Sec. 41. VERMONT STRONG MOTOR VEHICLE PLATES

The agency is authorized to expend up to \$12,000.00 from the central garage appropriation for the purchase of Vermont Strong motor vehicle plates for installation on agency vehicles in conformance with No. 71 of the Acts of the 2011 Adj. Sess. (2012).

* * * Natural Gas-Powered Motor Vehicles; Tax Proceeds * * *

Sec. 42. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(7) Sales of motor fuels taxed or exempted under 23 V.S.A. chapter 28 of Title 23; provided, however, that aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the transportation fund in accordance with 19 V.S.A. § 11.

* * *

Sec. 43. 19 V.S.A. § 11 is amended to read:

§ 11. TRANSPORTATION FUND

The transportation fund shall be comprised of the following:

* * *

(4) moneys received from the sales and use tax on aviation jet fuel and on natural gas used to propel a motor vehicle under 32 V.S.A. chapter 233;

* * *

Sec. 44. 23 V.S.A. § 3101 is amended to read:

§ 3101. DEFINITIONS

(a) The term “distributor” as used in this subchapter shall mean a person, firm, or corporation who imports or causes to be imported gasoline or other motor fuel for use, distribution, or sale within the state, or any person, firm, or corporation who produces, refines, manufactures, or compounds gasoline or other motor fuel within the state for use, distribution, or sale. ~~Kerosene, diesel oil, and aircraft jet fuel shall not be considered to be motor fuel under this subchapter.~~

~~(b)~~ When a person receives motor fuel in circumstances which preclude the collection of the tax from the distributor by reason of the provisions of the constitution and laws of the United States, and ~~shall~~ thereafter ~~sell~~ sells or ~~use~~ uses the motor fuel in the state in a manner and under circumstances as may subject the sale to the taxing power of the state, the person shall be considered a distributor and shall make the same reports, pay the same taxes, and be subject to all provisions of this subchapter relating to distributors of motor fuel.

~~(e)~~(b) “Dealer” means any person who sells or delivers motor fuel into the fuel supply tanks of motor vehicles owned or operated by others.

(c) As used in this subchapter, “gasoline or other motor fuel” or “motor fuel” shall not include kerosene, diesel oil, aircraft jet fuel, or natural gas in any form.

(d) “Motor vehicle” means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.

* * * Effective Dates * * *

Sec. 45. EFFECTIVE DATES

(a) This section and Secs. 3 (portable hot mix plant), 4 (program development – roadway – CIRC alternatives), 11 (Rutland–Burlington rail and crossings project), 13 (purchase of rail bridge inspection vehicle), 14 (anticipation of federal receipts – rail program), 16 (VTrans learning campus facility), 18 (powers of secretary of transportation), 19 (authority to issue transportation infrastructure bonds), 21 (agency of transportation positions), 25 (state aid for town highways), 37 (copies of municipal reports), 38 (traffic safety enforcement cost study), 39 (alternative fuel vehicles; user pay study), 40 (commission on transportation funding), and 41 (Vermont Strong plates) of this act shall take effect on passage. The authority granted by Sec. 25(f) of this act (state aid for federal disasters) shall be retroactive to March 1, 2011.

(b) Secs. 42–44 shall take effect on July 1, 2013.

(c) All other sections of this act shall take effect on July 1, 2012.

(No House Amendments)

H. 785

An act relating to capital construction and state bonding budget adjustment

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

Sec. 1. FINDINGS

(a) Damage to state-owned assets and infrastructure caused by Tropical Storm Irene on August 28, 2012 made necessary some of the reallocations and appropriations contained in this act.

(b) During the next biennium, much of the state's capital budget will be dedicated to the renovation and replacement of state-owned assets and infrastructure damaged by Tropical Storm Irene.

Sec. 2. Sec. 1 of No. 40 of the Acts of 2011 is amended to read:

Sec. 1. LEGISLATIVE INTENT

(a) Notwithstanding any other provision of law, this act, unlike previous acts relating to capital construction and state bonding, appropriates capital funds for the next two years. This ~~temporary~~ move to a biennial capital budgeting cycle is designed to accelerate the construction dates of larger projects and thus create jobs for Vermonters sooner than would be possible under a one-year capital budgeting cycle.

(b) It is the intent of the general assembly that:

~~(1) this move to a biennial capital budgeting cycle shall apply only to FY 2012 and FY 2013. [Repealed.]~~

~~(2) any decision to move permanently to a biennial capital budgeting cycle shall receive study and consideration at a later date prior to implementation. [Repealed.]~~

(3) of the \$154,739,399 \$158,027,602 million authorized by this act, no more than ~~\$92,249,757~~ \$87,952,312 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

* * *

Sec. 3. Sec. 2 of No. 40 of the Acts of 2011 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2012:

* * *

(4) Statewide, major maintenance. Of this amount, up to \$360,000 may be used for window sills and frames in coordination with the ARRA-funded window replacement project in Waterbury and up to \$270,000 may be used for Vergennes (the former Weeks School) Stormwater Runoff. For the purposes of this act, major maintenance shall mean deferred maintenance, planned capital renewal, and routine maintenance as these terms are defined in the memorandum of explanation of terminology dated April 14, 2011 from BGS to the chairs of the institutions committees: 8,000,000

(5) Statewide, BGS engineering, project management, and architectural project costs. ~~It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:~~ 2,428,802

* * *

(12) ~~Montpelier, 120 State St., planning and design for building renovations:~~ ~~-250,000~~ [Repealed]

* * *

(20) ~~Waterbury, wood chip-fired boiler facility planning:~~ 500,000
[Repealed.]

* * *

(c) The following sums are appropriated in FY 2013:

* * *

(3) Statewide, major maintenance, as that term is defined in subdivision (b)(4) of this section: ~~7,900,000~~ 6,700,000

* * *

(4) Statewide, BGS engineering, project management, and architectural project costs . ~~It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:~~ ~~2,428,802~~ 2,433,490

* * *

(7) Vermont Veterans' Memorial Cemetery Master Plan: 250,000

(8) Montpelier, state house, renovate and refurnish house committee rooms, for completion of the third floor rooms, to continue to make better use of existing space and for upgrading the state house sound system. The speaker of the house shall be the ultimate point of contact and decision-maker for ensuring timely completion of this project. By January 1, 2013, the Ethan

Allen room shall be restored to public use:
380,960

(9)(A) For planning, design, demolition, flood mitigation, permitting, construction and architectural and engineering costs for design development for a version of the partial reuse of the Waterbury Complex and new construction as described in the consultants' feasibility study dated March 9, 2012 and subsection (f) of this section:

11,975,000

(B)(i) For planning, design, site acquisition, leasing, including land leasing and lease purchasing, construction and architectural and engineering costs for design development or renovation related to the relocation or replacement of services previously provided at Vermont State Hospital, including the establishment of a 14-bed unit and a six-bed unit, respectively, at a hospital in southeastern Vermont and a hospital in southwestern Vermont; a new 25-bed hospital owned and operated by the state in central Vermont and proximate to an existing hospital; a secure seven-bed residential facility owned and operated by the state; or the provision of acute inpatient services at temporary locations:

4,975,000

(ii) Notwithstanding 29 V.S.A. § 820, the commissioner of buildings and general services shall present three potential names for the new 25-bed hospital to the general assembly on or before January 15, 2013. The commissioner shall give preference to Vermonters integral to the advancement of mental health care in the state.

(C) To renovate and equip the National Life building in Montpelier to accommodate state offices as described in Sec. 20 of the 2012 capital budget adjustment act:

1,000,000

(D) Notwithstanding subsection (a) of this section, allocations in this subdivision shall be used only to fund the projects described in this subdivision (9). However, if costs associated with these projects exceed the amount allocated in this subdivision, the commissioner may transfer funds from other projects in this section.

(E) For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on the Waterbury Complex and the mental health system of care as soon as possible, it is the intent that more funds will be appropriated for these projects in future acts relating to capital construction and state bonding.

* * *

(f)(1) Option B of the of the Freeman, French, Freeman report published on March 9, 2012 aligns closely with the general assembly's vision for the Waterbury Complex. However, the general assembly believes that Option B could be modified to achieve a cost savings to Vermonters. On or before June 1, 2012, the department of buildings and general services shall present a modified design proposal, including proposals under subdivision (4) of this subsection (f) to the house committee on corrections and institutions, the senate committee on institutions, and the special committee described in this subsection.

(A) The general assembly envisions that the modified design proposal would meet the dual goals of achieving a cost savings for the state and delivering state services in the most efficient manner possible while still utilizing quality Vermont materials for the new building.

(B) Because the quality and efficiency of state services are as important as achieving a cost savings, the size of the new building and the size of the future complex in general should be determined only after the following assessments, which shall also consider outcomes such as reduced operating expenses; judicious consumption of energy; increased use of telecommuting or hoteling; an awareness of modern workplace space standards; and minimized use of leased space:

(i) a program assessment to determine the amount of space necessary to house the agency of human services with room for projected future growth or any other state agency deemed appropriate by the commissioner of buildings and general services.

(ii) an assessment of the feasibility of moving the department of education to the complex, including a 20-year cost comparison to other options in central Vermont.

(2) A special committee consisting of the joint fiscal committee, the chairs of the house committee on corrections and institutions, and the senate committee on institutions ("special committee") is hereby established.

(A) The special committee shall meet to review, approve, or recommend alterations to the design described in this subsection at the next regularly scheduled meeting of the joint fiscal committee or at an emergency meeting called by the chairs of the house committee on corrections and institutions, the senate committee on institutions, and the joint fiscal committee.

(B) In making its decision, the special committee shall consider how the design impacts the ability of the state to provide services to citizens, programming, the financial consequences to the state of approval or

disapproval of the proposal, and potential alternatives available. The special committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 406.

(C) The special committee may also meet to make decisions made necessary by unanticipated or unforeseen circumstances.

(3) The commissioner of buildings and general services shall notify the house committee on corrections and institutions and the senate committee on institutions at least monthly of updates to the planning process for the projects described in subdivision (c)(9) of this section. With approval of the speaker of the house and the president pro tempore, as appropriate, the house committee on corrections and institutions and the senate committee on institutions may meet up to six times when the general assembly is not in session to discuss any significant updates to the planning process for the Waterbury Complex and make recommendations to the special committee described in this subsection. The committees shall notify the commissioner of buildings and general services prior to holding a meeting pursuant to this subdivision. Committee members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

(4) The commissioner of buildings and general services is authorized to take certain actions before formal approval of the design. Therefore, notwithstanding 29 V.S.A. § 152(a)(6), 165, or 166 or any other provision of law, in addition to producing a design, permitting, and applying for federal aid, upon passage of this act, the commissioner of buildings and general services may:

(A) lease, sell, lease purchase, subdivide, or donate the following buildings within the Waterbury Complex in their current condition: Wasson, 121 South Main Street, 123 South Main Street, 5 Park Row, 43 Randall Street, and their improvements.

(B) consider retaining the Ladd building or the Weeks building for state use. If the commissioner determines that retaining Ladd or Weeks is not in the best interest of the state, the commissioner may divest the state of these properties by any manner described in subdivision (4)(A) of this subsection (f) subject to the requirements of subdivision (2)(A) of this subsection (f).

(C) consider whether the Hanks building should be demolished to facilitate flood mitigation efforts and, if the commissioner so determines, demolish the building in accordance with the requirements of subdivision (4)(E) of this subsection (f). Otherwise, the commissioner may divest the state of Hanks by any manner described in subdivision (4)(A) of this

subsection (f) subject to the requirements of subdivision (2)(A) of this subsection (f).

(D) consider whether the Stanley building should be retained for state use, or in the alternative, demolished in accordance with the requirements of subdivision (4)(E) of this subsection (f) and the site transferred to the town of Waterbury following negotiations between the town and the department of buildings and general services as to who shall be responsible for any demolition costs, subject to the requirements of subdivision (2)(A) of this subsection (f).

(E) assuming any required permits are attained, demolish any building in the Waterbury Complex except those named in subdivisions (f)(4)(A), (B), (C), or (D) of this section; the 1889–1896 early construction buildings, sometimes referred to as the historic bone or spine; the smokestack; and the public safety headquarters and forensics laboratory and their improvements.

(F) before selecting a heating system for the Waterbury Complex, investigate further and consider options to assure the personnel operating costs as well as other life cycle costs have been analyzed. The department or designee shall also conduct a comparative cost effectiveness analysis of producing heat and electricity.

(5) To the extent that amounts of potential funding from various sources are not clear upon passage of this act, the legislative intent for funding the capital costs of subdivision (c)(9) and subsection (f) of this section to the extent practicable is first through insurance funds that may be available for these purposes; second through the Federal Emergency Management Agency (FEMA) funds that may be available for these purposes and any required state match; third, in the case of the 14-bed unit and the six-bed unit described in No. 79 of the Acts of the 2011 Adj. Sess. (2012), through a rate payment with clearly defined terms of services; and last with state capital or general funds. Notwithstanding 32 V.S.A. §§ 134 and 135, any capital funds expended for projects described in this act that are reimbursed at a later date by insurance or FEMA shall be reallocated to fund capital projects in a future act relating to capital construction and state bonding.

Appropriation – FY 2012	\$26,928,802	\$26,178,802
Appropriation – FY2013	\$11,878,802	\$29,264,450
Total Appropriation – Section 2	\$38,807,604	\$55,443,252

Sec. 4. Sec. 4 of No. 40 of the Acts of 2011 is amended to read:

Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2012 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

* * *

(2) Vermont state hospital, ongoing safety renovations: ~~400,000~~ 2,555

* * *

(d) The following sums are appropriated in FY 2013 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

(1) ~~Corrections, rehabilitate VCI print shop: 143,920~~ [Repealed]

* * *

(e)(1) The sum of ~~\$14,000,000~~ \$9,000,000 is appropriated in FY 2013 to the department of buildings and general services for the agency of human services to continue the project described in subdivision (a)(1) of this section (co-location of department of health laboratory with the UVM Colchester research facility). For the purpose the purposes of completing a project approved for FY 2012 but delayed following Tropical Storm Irene and of allowing the department of buildings and general services to enter into contractual agreements and complete work on the health laboratory project as soon as possible, it is the intent of the general assembly that these are committed funds not subject to budget adjustment the balance needed to complete this project will be funded in FY 2014.

(2) Notwithstanding 29 V.S.A. § 820 and 10 V.S.A. chapter nine, the commissioner of buildings and general services shall present three potential names for the new health laboratory to the general assembly on or before January 15, 2013. The commissioner shall give preference to Vermonters who have made significant advancements in the field of public health.

(f) The commissioners of buildings and general services and of corrections shall study the feasibility of creating an industry at the Southern State Correctional Facility and any construction that would be required. The study shall include information regarding recidivism rates for participants in Vermont offender works programs and shall be presented to the house committee on corrections and institutions and the senate committees on judiciary and on institutions on or before January 15, 2013.

Appropriation – FY 2012	\$17,800,000	<u>\$17,702,555</u>
Appropriation – FY 2013	\$15,843,920	<u>\$10,700,000</u>
Total Appropriation – Section 4	\$33,643,920	<u>\$28,402,555</u>

Sec. 5. Sec. 5 of No. 40 of the Acts of 2011 is amended to read:

Sec. 5. JUDICIARY

* * *

(c) Hyde Park, Lamoille County Courthouse, planning and design for building renovations and addition: 250,000

Total Appropriation – Section 5	\$400,000	<u>\$650,000</u>
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Sec. 6. Sec. 7 of No. 40 of the Acts of 2011 is amended to read:

Sec. 7. BUILDING COMMUNITIES GRANTS

(a) The following sums are appropriated in FY 2012 for building communities grants established in 24 V.S.A. chapter 137 ~~of Title 24~~:

(6) ~~For~~ To the agency of agriculture, food and markets for the agricultural fairs capital projects competitive grant program: 225,000

* * *

(b) The following sums are appropriated in FY 2013 for building communities grants established in 24 V.S.A. chapter 137 ~~of Title 24~~:

* * *

(3) To the Vermont council on the arts for the cultural facilities grant program, the sum of which may be used to match funds which may be made available from the National Endowment of the Arts, provided all capital funds are made available to the cultural facilities grant program: 225,000

* * *

(6) ~~For~~ To the agency of agriculture, food and markets for the agricultural fairs capital projects competitive grant program: 225,000

(7) To the department of buildings and general services, for the regional economic development grant program: 225,000

Appropriation – FY 2012		\$1,350,000
Appropriation – FY 2013	\$1,350,000	<u>\$1,575,000</u>
Total Appropriation – Section 7	\$2,700,000	<u>\$2,925,000</u>

Sec. 6a. Sec. 8 of No. 40 of the Acts of 2011 is amended to read:

Sec. 8. EDUCATION

* * *

(b) ~~\$7,425,000~~ \$7,375,000 is appropriated in FY 2013 pursuant to 16 V.S.A. § 3448. ~~It is the intent of the general assembly that these are committed funds not subject to capital budget adjustment.~~

Total Appropriation – Section 8 ~~\$14,850,000~~ \$7,375,000

Sec. 7. Sec. 10 of No. 40 of the Acts of 2011 is amended to read:

Sec. 10. UNIVERSITY OF VERMONT

* * *

(b) ~~\$1,800,000 is appropriated in FY 2013 for the project described in subsection (a) of this section~~ The University of Vermont requested that any capital funding it was to receive in FY 13 be appropriated for Tropical Storm Irene recovery efforts.

* * *

Total Appropriation – Section 10 ~~\$3,600,000~~ \$1,800,000

Sec. 7a. Sec. 11 of No. 40 of the Acts of 2011 is amended by adding a new subsection (d) to read:

(d) To the extent the \$153,160,000 of general obligation bonds authorized by Sec. 25 of this act can be reduced by the use of bond premiums, up to \$2,000,000 of the authorized amount that is no longer required to fund appropriations of this act as amended by capital budget adjustment shall be appropriated to the Vermont State Colleges to offset part of the construction costs of a community college facility in Brattleboro.

Sec. 8. Sec. 12 of No. 40 of the Acts of 2011 is amended to read:

Sec. 12. NATURAL RESOURCES

(a) The following sums are appropriated to the agency of natural resources in FY 2012 for:

* * *

(3) the following water pollution control TMDL and wetland protection projects:

- (A) Ecosystem restoration and protection: 2,500,000
- (B) Waterbury waste treatment facility phosphorous removal: ~~2,700,000~~ 2,000,000

* * *

(b) The following sums are appropriated to the agency of natural resources in FY 2013 for:

(1) the water pollution control fund for the following projects:

(A) Clean water state/EPA revolving loan fund (CWSRF)
match: ~~2,000,400~~ 1,480,720

* * *

(E) Administrative support – engineering, oversight, and program management. ~~It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:~~
300,000

(2) the following projects:

(A) the drinking water state revolving fund for balance of match to federal FY 2011 EPA grant: ~~2,433,140~~ 1,733,140

(B) Engineering oversight and project management. ~~It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:~~ 300,000

(C) the Vermont drinking water revolving loan fund: 200,000

* * *

(5) the following department of fish and wildlife projects:

* * *

(D) purchase of a training trailer, safety ramps, metal detectors, and game cameras: 58,600

(E) for the Vermont Youth Conservation Corps to perform stabilization, restoration, and cleanup of environmental damage to waterways, forests, and public access lands caused by Tropical Storm Irene, including projects such as controlling the spread of invasive species, stabilizing flood-eroded river and stream banks; restoring vital aquatic and wildlife habitats, removing toxic materials from fragile natural areas, and remediating recognized viewsheds: 200,000

Appropriation – FY 2012 \$14,221,713 \$13,521,713

Appropriation – FY 2013 ~~\$11,683,540~~ \$10,922,460

Total Appropriation – Section 12 ~~\$25,905,253~~ \$24,444,173

Sec. 9. Sec. 14 of No. 40 of the Acts of 2011 is amended to read:

Sec. 14. PUBLIC SAFETY

* * *

~~(c) \$2,500,000 is appropriated in FY 2012 to the department of buildings and general services for the department of public safety for the design, construction, and fit up of a new public safety field station to consolidate the Brattleboro and Rockingham barracks. [Repealed.]~~

~~(d) \$2,500,000 is appropriated in FY 2013 for the project described in subsection (c) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on this project as soon as possible For the purpose of completing a project approved for FY 2012 but canceled following Tropical Storm Irene, it is the intent of the general assembly that these are committed funds not subject to budget adjustment to appropriate \$5,000,000 over FY 2014–2015 to the department of buildings and general services for the department of public safety for the design, construction, and fit up of a new public safety field station to consolidate the Brattleboro and Rockingham barracks.~~

* * *

~~(f) The \$50,000 is appropriated for the commissioners of the departments of public safety and of buildings and general services shall study the feasibility of consolidating to conduct a comprehensive review of the Vermont State Police facilities currently located in Bradford and St. Johnsbury into one location needs. At a minimum, the review shall engage communities and prioritize needs for the following projects: consolidating the existing St. Johnsbury and Bradford offices and determining whether the Middlesex, Rutland, or Williston facility should be expanded, renovated, replaced, consolidated, or moved to a new location better situated within the service area. The ultimate goal of the review shall be determining how best to support the capacity of the Vermont State Police to provide services to Vermonters.~~

Appropriation – FY 2012	\$2,560,000	\$60,000
Appropriation – FY 2013	\$2,550,000	\$100,000
Total Appropriation – Section 14	\$5,110,000	\$160,000

Sec. 10. Sec. 15 of No. 40 of the Acts of 2011 is amended to read:

Sec. 15. CRIMINAL JUSTICE TRAINING COUNCIL; DEPARTMENT OF PUBLIC SAFETY

No capital funds other than those to be used for major maintenance shall be appropriated for the criminal justice training council or the ~~fire training council~~ department of public safety until the two entities enter into a memorandum of understanding regarding the use of facilities and a strategic plan to avoid duplication of facilities and services.

Sec. 11. Sec. 16 of No. 40 of the Acts of 2011 is amended to read:

Sec. 16. AGRICULTURE, FOOD AND MARKETS

(a) ~~\$1,300,000~~ \$1,050,000 is appropriated in FY 2012 to the agency of agriculture, food and markets for the best management practice implementation and Capital Equipment Assistance ~~cost share program programs~~, to continue to reduce nonpoint source pollution in Vermont. Cost share funds shall not exceed 90 percent of the total cost of a best management practices project or 50 percent for a Capital Equipment Assistance project. Whenever possible, state funds shall be combined with federal funds to complete projects.

(b) \$1,200,000 is appropriated in FY 2013 for the program described in subsection (a) of this section.

Total Appropriation – Section 16 ~~\$2,500,000~~ \$2,250,000

Sec. 12. [Deleted]

Sec. 12a. Sec. 21 of No. 40 of the Acts of 2011 is amended to read:

Sec. 21. INFORMATION AND INNOVATION

~~\$5,334,139~~ \$5,284,139 is appropriated in FY 2013 to the department of information and innovation for the upgrade of the financial and human resources computer system. The department shall report back to the general assembly on or before January 15, 2012 regarding how the appropriations granted in Sec. C.100 of No. 63 of 2011 (~~H.441; the appropriations bill~~) have been used for this project.

Total Appropriation – Section 21 ~~\$5,334,139~~ \$5,284,139

Sec. 12b. Sec. 23 of No. 40 of the Acts of 2011 is amended to read:

Sec. 23. VERMONT INTERACTIVE TELEVISION

* * *

(b) ~~\$299,241~~ \$279,241 is appropriated in FY 2013 to Vermont Interactive Television for the project described in subsection (a) of this section.

Total Appropriation – Section 23 ~~\$598,483~~ \$578,483

* * * Financing This Act * * *

Sec. 13. Sec. 24 of No. 40 of the Acts of 2011 is amended to read:

Sec. 24. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

The following sums are reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 2 of this act:

* * *

(3) of the amount appropriated by Sec. 6 of No. 200 of the Acts of the 2007 Adj. Sess. (2008)(~~human resources~~ services and educational facilities grants): 3,969.35

* * *

(10) of the amount appropriated by Sec. 3 of No. 52 of the Acts of 2007 (public safety, forensic lab): 4,561.50

(11) of the amount appropriated by Sec. 1 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (major maintenance): 18,163.00

(12) of the amount appropriated by Sec. 15 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (fire service training council): 2,894.85

(13) of the amount appropriated by Sec. 18 of No. 43 of the Acts of 2009 (Vermont Veterans' Home North Wing Roof): 20,307.00

(14) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 (ADA compliance Newport): 100,000.00

(15) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 (Springfield Office Building): 150,000.00

(16) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 (Middlesex, State Archives): 24,963.23

(17) of the amount appropriated by Sec. 1 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (BGS engineering and architectural costs): 73,538.60

(18) of the amount appropriated by Sec. 1 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Springfield SOB HVAC Upgrade): 133,747.70

(19) of the amount appropriated by Sec. 1 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Bennington State Office Building): 750,000.00

(20) of the amount appropriated by Sec. 3 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (CRCF grease trap): 171,675.62

(21) of the amount appropriated by Sec. 15 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Pittsford firing range): 416,904.16

(22) of the amount appropriated by Sec. 19 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Vermont Veterans' Home, gas line replacement):

9,912.95

(23) of the amount realized from the sale of property authorized by Sec. 32 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (Hartford property):

5,300.00

(24) of the amount realized from the sale of property authorized by Sec. 25 of No. 43 of the Acts of 2009 (Vergennes, relinquishment of right-of-way):

2.00

(25) of the amount realized from the sale of property authorized by Sec. 26 of No. 52 of the Acts of 2007 (Brandon Training School):

202,157.45

(26) of the amount realized from the sale of property authorized by Sec. 25 of No. 43 of the Acts of 2009 (Dummerston Library):

44,000.00

(27) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (water pollution control):

1,734.88

(28) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (potable water supply construction):

43,608.59

(29) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (water pollution control construction):

34,806.04

(30) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water pollution):

25,674.00

(31) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water pollution planning):

316.45

(32) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water supply planning):

3,187.30

(33) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water supply wastewater):

6,896.28

(34) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water pollution):

207,433.00

(35) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water pollution planning):

18,374.13

(36) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water supply):

909.76

(37) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water supply planning):

7,709.44

<u>(38) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (pollution control):</u>	<u>19,637.00</u>
<u>(39) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (pollution control planning):</u>	<u>7,919.79</u>
<u>(40) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (water supply):</u>	<u>27,840.43</u>
<u>(41) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (zebra mussel control):</u>	<u>61,613.96</u>
<u>(42) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (water supply):</u>	<u>17,697.03</u>
<u>(43) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (municipal grants):</u>	<u>8,508.92</u>
<u>(44) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (water pollution):</u>	<u>4,920.00</u>
<u>(45) of the amount appropriated by Sec. 10 of No. 185 of the Acts of the 1995 Adj. Sess. (1996) (Hinesburg project):</u>	<u>35,420.36</u>
<u>(46) of the amount appropriated by Sec. 18 of No. 62 of the Acts of 1997 (pollution control):</u>	<u>12,329.93</u>
<u>(47) of the amount appropriated by Sec. 18 of No. 62 of the Acts of 1997 (pollution control planning):</u>	<u>4,745.48</u>
<u>(48) of the amount appropriated by Sec. 13 of No. 29 of the Acts of 1999 (pollution control):</u>	<u>18,208.13</u>
<u>(49) of the amount appropriated by Sec. 13 of No. 29 of the Acts of 1999 (Shoreham project):</u>	<u>7,435.25</u>
<u>(50) of the amount appropriated by Sec. 15 of No 148 of the Acts of the 1999 Adj. Sess. (2000) (Bennington sewer project):</u>	<u>5,000.00</u>
<u>(51) of the amount appropriated by Sec. 10 of No. 121 of the Acts of the 2003 Adj. Sess. (2004)(state-owned dams):</u>	<u>7.70</u>
<u>(52) of the amount appropriated by Sec. 11 of No. 52 of the Acts of 2007 (phase II Bennington fish station):</u>	<u>95.93</u>
<u>(53) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (Historic Preservation Grant Program):</u>	<u>9,959.00</u>
<u>(54) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (Historic Barns Preservation Grant Program):</u>	<u>9,750.00</u>

<u>(55) of the amount appropriated by Sec. 20 of No. 43 of the Acts of 2009 (Vermont council on the arts cultural facility grant):</u>	<u>3,516.00</u>
<u>(56) of the amount appropriated by Sec. 6 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Vermont council on the arts cultural facility grant):</u>	<u>2,033.00</u>
<u>(57) of the amount appropriated by Sec. 7 of No. 40 of the Acts of 2011 (Vermont council on the arts cultural facility grant):</u>	<u>10,662.00</u>
<u>(58) of the amount appropriated by Sec. 11 of No. 161 of the Acts of the 2009 Adj. Session (2010) (Vermont Interactive TV Equipment):</u>	<u>0.32</u>
<u>(59) of the amount appropriated by Sec. 10 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (VSC - major maintenance):</u>	<u>0.28</u>
<u>(60) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (broadband development grant program):</u>	<u>50,000.00</u>
<u>(61) of the amount realized from the sale authorized by Sec. 25 of No. 43 of the Acts of 2009 (Former Tree Farm Property):</u>	<u>184,200.00</u>
<u>(62) of the amount appropriated by Sec. 1 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (ADA improvements):</u>	<u>47,020.92</u>
<u>(63) of the amount appropriated by Sec. 20 of the Acts of 2009 (human services and educational facilities competitive grant program):</u>	<u>10,904.00</u>
<u>(64) of the amount appropriated by Sec. 9 of No. 61 of the Acts of 2001 (pollution control and drinking water):</u>	<u>9,286.25</u>
<u>(65) of the amount appropriated by Sec. 10 of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (pollution control and drinking water):</u>	<u>31,070.58</u>
<u>(66) of the amount appropriated by Sec. 12 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (pollution control):</u>	<u>46,502.29</u>
<u>(67) of the amount appropriated by Sec. 9 of No. 43 of the Acts of 2009 (pollution control):</u>	<u>129,544.42</u>
<u>(68) of the amount appropriated by Sec. 12 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (pollution control):</u>	<u>33,596.46</u>
Reallocations and Transfers – FY 2012	\$1,579,398.51
Reallocations and Transfers – FY 2013	\$3,288,203.36
Total Reallocations and Transfers	<u>\$4,867,601.87</u>

Sec. 14. Sec. 26 of No. 40 of the Acts of 2011 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

~~(a)(1) On or before October 1, 2011, the City of Rutland shall present to the commissioner of buildings and general services a plan for the Rutland Multi Modal Transit Center (parking garage) that satisfies the city's interest in the parking garage, reduces the costs to the state of maintaining and operating the parking garage, protects the state's assets, and is designed to result ultimately in the sale of the parking garage and the Asa Bloomer State Office Building. Upon receiving the plan, the commissioner may accept, reject, or modify it.~~

~~(2) Upon receiving the plan referred to in subdivision (1) of this subsection or on or after October 2, 2011, the commissioner may petition the chair and vice chair of the house committee on corrections and institutions and the chair and vice chair of the senate committee on institutions for permission to sell the Asa Bloomer State Office Building and parking garage. Notwithstanding any law, the chairs and vice chairs may authorize the sale to be conducted in accordance with 29 V.S.A. § 166 as long as the general assembly is not convened. The commissioner of buildings and general services may sell the Asa Bloomer State Office Building and the Rutland Multi-Modal Transit Center in accordance with the requirements of 29 V.S.A. § 166(d) and following negotiations with the City of Rutland. If negotiations with the city result in the city's management of the Transit Center, the commissioner may use \$81,0000 in unexpended capital funds previously appropriated to the department to purchase a flexible parking machine for the Transit Center. It is the intent of the general assembly that state offices remain downtown.~~

* * *

(f) The commissioner of buildings and general services may evaluate plans to sell, lease, subdivide, enter into long-term lease, or any combination thereof of the St. Albans State Office Building located at 20 Houghton Street to support expanding the Vermont Service Center or other employers. It is the intent of the general assembly that state offices remain downtown.

(g) The secretary of agriculture, food and markets, the secretary of natural resources, the secretary of transportation, or the commissioner of buildings and general services, in consultation with the agency of commerce and community development, may sell, enter into a long-term lease of, and utilize surplus properties. The emergency board, the chair of the house committee on corrections and institutions, and the chair of the senate committee on institutions shall determine what land or facilities are surplus for the purpose of this subsection when the general assembly is not in session. When the general

assembly is in session, requests shall be made to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 15. Sec. 25(f) of No. 161 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 29 of No. 40 of the Acts of 2011, is further amended to read:

(f) Following consultation with the state advisory council on historic preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans. Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in ~~Sec. 30 of this act~~ 29 V.S.A. § 155.

Sec. 15a. 29 V.S.A. § 152 is amended to read:

§ 152. DUTIES OF COMMISSIONER

(a) The commissioner of buildings and general services, in addition to the duties expressly set forth elsewhere by law, shall have the authority to:

* * *

(36) enter into agreements with local information service providers allowing those providers to offer local and regional tourism information under guidelines established by the commissioner.

(37) enter into agreements with, and grant funds to, local or regional chambers of commerce to provide staffing and operations of state-owned welcome centers, rest areas, and information centers under guidelines established and enforced by the commissioner.

Sec. 16. Sec. 47(c) of No. 40 of the Acts of 2011 is amended to read:

(c) The secretary of administration is charged with coordinating this initiative. The secretary or designee shall track the state's progress in meeting these goals and, for the purpose of encouraging success, shall have the authority to implement incentive programs, to consult with public and nonpublic entities about strategies, and to require the relevant subdivisions of state government to take necessary actions. ~~The secretary may use incentives received by the state from an electric energy efficiency entity to cover the costs associated with tracking or encouraging success in meeting these goals.~~

* * * Miscellaneous Reallocations and Property Transfers New to
Capital Budget Adjustment * * *

Sec. 17. Sec. 32 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 32. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

(d) Pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services, with the approval of the secretary of administration, and following a report to the joint fiscal committee on the implications for operating and fee-for-space costs to the department of motor vehicles, shall sell, lease, subdivide, convert into condominiums, or any combination thereof, the Thayer School building located at 1193 North Avenue in Burlington. After payment of any costs and fees associated with the transaction, proceeds from a sale or lease shall be deposited into a capital fund pursuant to 29 V.S.A. § 166(d), and proceeds from a lease shall be deposited into a property management fund pursuant to 29 V.S.A. § 160 reallocated in a future act relating to capital construction and state bonding.

(e) Notwithstanding 29 V.S.A. § 166(b), the commissioner of buildings and general services may sell or lease land, mineral rights, or both, as follows:

* * *

(5) after payment of any costs and fees associated with the transaction, proceeds from a sale or lease shall be deposited into a capital fund pursuant to 29 V.S.A. § 166(d), and proceeds from a lease shall be deposited into a property management fund pursuant to 29 V.S.A. § 160 reallocated in a future act relating to capital construction and state bonding.

* * *

* * * Transcription Errors * * *

Sec. 18. CORRECTION OF TRANSCRIPTION ERRORS

(a) Where it appears in Sec. 23(18) of No. 161 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 78 of No. 3 of the Acts of 2011, the number 1,922.00 shall be 11,922.00.

(b) Where it appears in Sec. 48 of No. 40 of the Acts of 2011, amending 29 V.S.A. § 168(b)(2)(B), the word “Moneys” shall be “Money”.

Sec. 19. Sec. 1(b) of No. 28 of the Acts of 2011 (Maidstone Lake Road) is amended to read:

(b) Of the funds appropriated to the agency of natural resources in Sec. 20(b)(9) of No. 43 of the Acts of the 2009 Adj. Sess. (2010), for the purpose of upgrading and maintaining the road, the balance remaining as of January 1, 2011 shall be transferred to the town of Maidstone and shall be used by the town for that purpose.

* * * Policy New to Capital Budget Adjustment * * *

* * * Buildings and General Services * * *

Sec. 20. LOCATION OF STATE EMPLOYEES

The general assembly believes that it is in the best interest of the state and its employees for state offices displaced by Tropical Storm Irene to be relocated to permanent locations as soon as possible. It is the intent of the general assembly therefore that the agency of natural resources be relocated to the National Life building in Montpelier. The integration of the agencies of transportation, of natural resources, and of commerce and community development at the National Life building is designed to provide increased efficiencies and quality of services. Notwithstanding this particular relocation, it remains the intent of the general assembly to continue to make prudent investments in building space to meet the facility needs of the state and to shift away from state reliance on leased space in accordance with 29 V.S.A. § 165(b).

Sec. 20a. LEASING PROPERTY

The commissioner of buildings and general services shall evaluate and report on or before January 15, 2013 whether and under what circumstances leasing property not owned by the state to accommodate space needs of an agency may be preferable to using state-owned property for the same purpose.

Sec. 21. 29 V.S.A. § 165 is amended to read:

§ 165. SPACE ALLOCATION, INVENTORY, AND USE; LEASING PROPERTY; COMMISSIONER'S PREAPPROVAL REQUIRED

* * *

(c)(1) Notwithstanding any provision of law to the contrary, the commissioner of buildings and general services shall have sole jurisdiction, sole authority and sole responsibility for making space allocations and designating uses in any portions of any building or structure for which the department of buildings and general services leases or pays for operation and maintenance expenses, or for which construction or fit-up was financed through an appropriation to the department of buildings and general services.

(2) On or before each January 15 and in accordance with this section, the commissioner shall present to the general assembly a report indicating which divisions have been moved over the past year and their former and present locations.

Sec. 22. [Deleted]

Sec. 23. RESTROOMS IN STATE BUILDINGS

By September 15, 2012, all single-occupancy restrooms with an outer door that can be locked by the occupant that are located in any building owned by the state shall be available for use regardless of the gender of the user.

Sec. 24. 29 V.S.A. § 157 is added to read:

§ 157. FACILITIES CONDITION ANALYSIS

(a) The commissioner of buildings and general services shall:

(1) maintain the condition of buildings and infrastructure under the commissioner's jurisdiction to provide a safe and healthy environment through sustainable practices and judicious capital renewal;

(2) conduct a facilities condition analysis each year of 20 percent of the building area and infrastructure under the commissioner's jurisdiction so that within five years all property is assessed. At the end of the five years, the process shall begin again.

(3) The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption.

(b) The commissioner may use up to two percent of the funds appropriated to the department of buildings and general services for major maintenance and planning for the purpose described in subsection (a) of this section.

Sec. 25. EMPLOYEE SERVICE MEMORIAL

(a) The commissioner of buildings and general services, in consultation with the commissioner of human resources and an association representing Vermont state employees, shall develop a plan to honor the services of past, present, and future Vermont state employees with an appropriate memorial. On or before January 15, 2013, the commissioner of buildings and general services shall recommend a future location for an employee service memorial and provide estimated costs to the general assembly.

(b) The commissioner of buildings and general services may accept donations for the administration, materials, creation, and maintenance of the service memorial.

Sec. 26. PARKING IN THE CAPITOL COMPLEX

(a) To reduce parking pressures for state employees in Montpelier and to meet Vermont's energy plan goals of reducing energy use in the transportation sector, the commissioner of buildings and general services shall review existing plans and reports including the Governor's Comprehensive Energy

Plan and, in consultation with the agency of transportation and the department of human resources, create a parking management program. Any capital improvements shall be presented to the general assembly for approval.

(b) The program shall include an assessment of legislative parking with proposals to terminate use of legislative parking by nonlegislative personnel and to assure availability of up to 240 parking spaces for legislators and staff assigned to a work station in the state house or at 1 Baldwin Street, including preferred parking for legislative leaders and those with special needs without specific assignments of parking spaces with minimal use of signage and in close proximity to the state house. The program shall include a report on the creation of preferred legislative parking areas for compact cars.

(c) The commissioner shall present the plan, including any associated capital requests or changes in operating costs, to the general assembly and the sergeant at arms on or before November 15, 2012.

Sec. 26a. CIVIL WAR MONUMENTS STUDY

The commissioner of buildings and general services, in collaboration with the Vermont Historical Society, shall study the feasibility of placing a Civil War monument at the Cedar Creek Battlefield in Middletown, Virginia in memory of the Vermont Brigade and of moving an existing Civil War monument in Winchester, Virginia to its original location in the Third Winchester Battlefield. The commissioner shall report its findings, including a request for any necessary appropriations, to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 26b. RENAMING THE STATE ARCHIVES BUILDING

The Vermont state archives and record administration building in Middlesex shall be renamed the "D. Gregory Sanford, Jr. State Archives and Records Building."

* * * Commerce and Community Development * * *

Sec. 27. 29 V.S.A. § 155 is amended to read:

§ 155. HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND

(a) There is established a special fund managed by and under the authority and control of the commissioner, comprising net revenue from the sale or lease of underutilized state-owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the fund; provided, however, that if the fund balance exceeds \$250,000.00 as of November 15 in any year, then the general

assembly shall reallocate ~~the excess funds not subject to encumbrances~~ for other purposes in the next enacted capital appropriations bill.

(b) ~~Monies in the fund shall be available to the department for the stabilization or rehabilitation of state-owned historic property pursuant to a program created jointly by the department of buildings and general services and the division for historic preservation of the agency of commerce and community development~~ rehabilitation or stabilization of state-owned historic properties that are authorized by the general assembly to be in the fund program, for payment of costs of historic resource evaluations and archeological investigations, for building assessments related to a potential sale or lease, for one-time fees for easement stewardship and monitoring, and for related one-time expenses.

(c) On or before January 15 of each year, the department shall report to the house committee on corrections and institutions and the senate committee on institutions concerning deposits into and disbursements from the fund occurring in the previous calendar year, the properties sold, ~~and leased,~~ stabilized, or rehabilitated during that period, and the department's plans for future stabilization or rehabilitation of state-owned historic properties.

* * *

Sec. 27a. 24 V.S.A. § 5607 is added to read:

§ 5607. REGIONAL ECONOMIC DEVELOPMENT GRANT PROGRAM

(a) Creation of program. There is created a regional economic development grant program to provide competitive grants to regional economic development corporations for capital costs associated with the major maintenance, renovation, or planning related to the development of facilities reasonably expected to create job opportunities in Vermont communities. The program is authorized to award matching grants of up to \$25,000.00 per project. The required match shall be met through dollars raised and not through in-kind services. State investments made under this program shall be consistent with the goals found in section 4302 of this title and local and regional plans adopted pursuant to this title.

(b) Creation of committee. There is established a regional economic development grant advisory committee to administer and coordinate the regional economic development grant program. The committee shall include the secretary of administration or designee; the commissioner of buildings and general services or designee; and two members of the Vermont general assembly, one appointed by the speaker of the house of representatives and one appointed by the senate committee on committees. The members of the committee shall select a chair.

Sec. 28. 24 V.S.A. § 5601 is amended to read:

§ 5601. BUILDING COMMUNITIES GRANTS

(a) The purpose of this chapter is to establish one-for-one matching grants to help communities, nonprofit organizations, or, as applicable under section 5603 of this chapter, barn owners preserve important historic buildings and enhance community facilities. Therefore, in order to make it easy for communities, nonprofit organizations, or barn owners to apply, the ~~board or department~~ entity which administers a grant program under this chapter shall work with other administrators of building communities grants to develop a standard application form which:

(1) describes the application process and includes clear instructions and examples to help applicants complete the form;

(2) includes an opportunity for a community, nonprofit organization, or barn owner to demonstrate its ability to generate one-for-one matching funds from local fundraising or other efforts;

(3) includes a summary of each of the other grants, their deadlines, and a statement that no community, nonprofit organization, or barn owner shall apply for more than one grant under this chapter for the same project in the same calendar year; and

(4) may include supplements specific to an individual grant.

(b) Each ~~board or department~~ entity which administers a grants program under this chapter shall establish a selection process which ensures equitable selection of grant recipients; and ensures accountability by grant recipients.

(c) Before it notifies an applicant of an award under this chapter, the ~~board or department~~ entity which administers the grant shall provide notice of the award and time and location of any award presentation to the chairs of the senate committee on institutions and the house committee on corrections and institutions, and those members of the general assembly who represent the area in which a successful applicant resides.

(d) Notwithstanding 32 V.S.A. § 701a, if, after an entity awards grant funds under this chapter, the funds remain unexpended and not subject to a grant agreement, the entity may reallocate the unexpended funds within its grant program within three years of the original award date. Any unexpended funds remaining after this three-year period that are not subject to a grant agreement shall be reallocated in future acts relating to capital construction and state bonding.

* * * Agriculture * * *

Sec. 28a. 10 V.S.A. § 54 is amended to read:

§ 54. RENTAL OF BUILDING; DISPOSITION OF FUNDS

The secretary may rent the building or parts thereof for exhibition purposes to available exhibitors with reasonable preference being given to exhibitors from this state and, with the approval of the governor, may rent or lease any part or all of the building to such parties and upon such terms and conditions and for such purposes as they shall determine to be in the best interests of the state, and the income therefrom shall be paid to the state treasurer and held by him or her in a separate fund for the purposes of this ~~section and sections 51 and 53 of this title~~ chapter. The commissioner of finance and management shall issue his or her warrant for the payment from such fund of all sums expended or due for the purposes herein authorized.

Sec. 28b. 6 V.S.A. § 4824(a) is amended to read:

(a) State grant. State financial assistance awarded under this subchapter shall be in the form of a grant. When a state grant is intended to match federal financial assistance for the same on-farm improvement project, the state grant shall be awarded only when the federal financial assistance has also been approved or awarded. An applicant for a state grant shall pay at least ~~15~~ 10 percent of the total eligible project cost. The dollar amount of a state grant shall be equal to the total eligible project cost, less ~~15~~ 10 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded, except that a state grant shall not exceed ~~80~~ 90 percent of the total eligible project cost.

Sec. 28c. 6 V.S.A. § 4826(a) is amended to read:

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the secretary of agriculture, food and markets for cost assistance. Using state or federal funds or both, a state assistance grant shall be awarded, subject to the availability of funds, to applicants. Such grants shall not exceed ~~85~~ 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation Service cost share assistance. Application for a state assistance grant shall be made in the manner prescribed by the secretary. For purposes of this section, "waste storage facility" means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. This section ~~does not~~ shall apply to concrete slabs used for agricultural waste management.

Sec. 28d. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative ~~manure injection~~ equipment that will aid in the reduction of surface runoff of agricultural wastes to state waters, improve water quality of state waters, reduce odors from manure application, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the agency of agriculture, food and markets to provide farms, nonprofit organizations, and custom applicators in Vermont with state financial assistance for the purchase of new or innovative ~~manure injection~~ equipment to improve manure application or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by rule by the secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators and nonprofit organizations and that are located in descending order within the boundaries of:

* * *

(d) ~~On or before January 15, 2009, and annually thereafter, the~~ The secretary of agriculture, food and markets shall report annually to the house and senate committees on agriculture and the house committee on fish, wildlife and water resources regarding the performance of and results achieved by providing capital assistance to custom applicators, nonprofit organizations, and farms for new or innovative ~~manure injection~~ equipment.

* * * Natural Resources * * *

Sec. 28e. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(9) The Vermont drinking water revolving loan fund which shall be used to provide loans to a municipality for the design, land acquisition, if necessary, and construction of a potable water supply when a household in the municipality has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees.

* * *

Sec. 28f. 24 V.S.A. § 4763a is added to read:

§ 4763a. LOANS FOR POTABLE WATER SUPPLIES

When a household has been involuntarily disconnected from a public water supply system and that disconnection did not occur as a result of nonpayment of fees, a loan may be made to a municipality from the Vermont drinking water revolving loan fund, established in section 4753 of this title, for the design, land acquisition if necessary, and construction of a potable water supply, as that term is defined in 10 V.S.A. chapter 64. In such cases, the following conditions shall apply:

(1) Guaranteed repayment of the loan will be based on a municipal bond, but actual repayment may be made with funds from the owner of the potable water supply, as set forth in an agreement between the owner and the municipality.

(2) All conditions and limitations of section 4755 of this title shall apply to loans made under this section.

(3) No loan shall be made to a municipality under this section nor shall any part of any revolving loan made under this section be expended until both of the following take place:

(A) The secretary certifies to the bond bank that the wastewater system and potable water supply permit necessary for the design and construction of the proposed potable water supply to be financed by the loan have been issued to the owner of the supply.

(B) The applicant municipality certifies to the bond bank that the owner of the proposed potable water supply has secured all state and federal permits, licenses, and approvals necessary to construct and operate the improvements to be financed by the loan.

* * * Capital Planning and Finance * * *

Sec. 29. 29 V.S.A. § 168 is amended to read:

§ 168. STATE RESOURCE MANAGEMENT; REVOLVING FUND

* * *

(b) Revolving fund.

* * *

(2) The fund shall consist of:

* * *

~~(D) Monies associated with all incentives received by the state of Vermont from an entity appointed under 30 V.S.A. § 209(d)(2) (electric energy efficiency entities).~~

* * *

Sec. 30. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(6) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources, state capital investment plans, and wetland protection.

* * *

(11) Undertake comprehensive planning, including related preliminary planning, state capital investment plans, and engineering studies.

* * *

Sec. 31. 32 V.S.A. § 309 is amended to read:

§ 309. CAPITAL BUDGET REPORT

(a) Consolidated capital budget request. In addition to the general operating budget request to be submitted by the governor to the general assembly pursuant to this chapter, the governor shall submit to the general assembly, not later than the third Tuesday of every annual session, a consolidated capital budget request ~~for the following fiscal year, which encompasses. In the first year of the biennium the budget shall relate to the next two fiscal years. In the second year of the biennium the budget shall relate primarily to the next fiscal year but may request amendments to the current or to previous fiscal years or refer to requests for future fiscal years. The request shall encompass~~ all undertakings that may require state general obligation debt financing, including transportation projects as follows:

(1) Activities proposed for funding by general obligation debt financing shall be restricted to tangible capital investments, but may include the planning, and design ~~and engineering~~ directly associated with a tangible capital investment.

(2) Proposed activities shall be further restricted to those capital expenses allowed under federal laws governing the use of state bond proceeds.

(3) The capital budget request shall be segmented by the expected functional life of proposed activities, and thus by a corresponding prudent use of either long-term bond issues with a customary 20-year payback period, or shorter-term bond issues with a lesser payback period.

(4) The capital budget shall not include requests for debt financing of state agency operating expenses not directly related to a capital investment as required hereinabove. The latter operating expenses shall be accounted for in the governor's annual general operating budget request.

(b) Affordable bond authorization proposal. ~~The~~ In the first year of the biennium, the annual capital budget request of the governor shall include a statement of the total amount of new state tax supported general obligation debt the governor considers advisable for the general assembly to authorize for the following next two fiscal year years, after having considered the maximum amount recommended for the following fiscal year by the capital debt affordability advisory committee as provided by subchapter 8 of chapter 13 of this title.

* * *

Sec. 32. 32 V.S.A. § 310 is amended to read:

§ 310. FORM OF ANNUAL CAPITAL BUDGET AND ~~LONG-RANGE~~ SIX-YEAR CAPITAL PROGRAM PLAN

(a) Each ~~annual~~ biennial capital budget request submitted to the general assembly shall be accompanied by, and placed in the context of, a ~~long-range six-year~~ state capital program plan to be prepared, and revised annually, by the governor and approved by the general assembly. The six-year plan shall include a list of all projects which will be recommended for funding in the current and ensuing five fiscal years. The list shall be prioritized based on need.

(b) The ~~annual~~ capital budget request for the following fiscal year shall be presented as the next ~~one-year~~ increment of the ~~long-range~~ six-year plan. Elements of the plan shall include:

(1) Assessment and projection of need.

(A) Capital needs and projections shall be based upon current and projected statistics on capital inventories and upon state demographic and economic conditions.

(B) Capital ~~inventories~~ funding shall ~~encompass all state financed capital programs, including~~ be categorized as follows:

(i) state buildings, facilities, and land acquisitions;

(ii) higher education;

(iii) aid to municipalities for education, environmental conservation, including water, sewer, and solid waste projects, and other purposes; and

(iv) transportation facilities.

(C) The capital needs and projections shall be for ~~each of the next~~ the current and the next five fiscal years, with longer-term projections presented for programs with reasonably predictable longer-term needs.

(D) Capital needs and projections shall be presented independently of financing requirements or opportunities.

(2) Comprehensive cost and financing assessment.

(A) Amounts appropriated and expended for the current fiscal year and for the preceding fiscal year shall be indicated for capital programs and for individual projects. The assessment shall indicate further the source of funds for any project which required additional funding and a description of any authorized projects which were delayed.

(B) Amounts proposed to be appropriated for the following fiscal year and each of the ~~four~~ five years thereafter shall be indicated for capital programs and for individual projects and shall be revised annually to reflect revised cost estimates and changes made in allocations due to project delays.

(C) The capital costs of programs and of individual projects, including funds for the development and evaluation of each project, shall be presented in full, for the entire period of their development.

(D) The operating costs, both actual and prospective, of capital programs and of individual projects shall be presented in full, for the entire period of their development and expected useful life.

(E) The financial burden and funding opportunities of programs and of individual projects shall be presented in full, including federal, state, and local government shares, and any private participation.

(F) Alternative methods of financing capital programs and projects should be described and assessed, including debt financing and use of current revenues.

Sec. 33. 32 V.S.A. § 701a is amended to read:

§ 701a. CAPITAL CONSTRUCTION BILL

(a) When the capital budget has been submitted by the governor to the general assembly, it shall immediately be referred to the committee on corrections and institutions which shall proceed to consider the budget request in the context of the ~~long-range~~ six-year capital program plan also submitted by the governor pursuant to sections 309 and 310 of this title. The committee shall also propose to the general assembly a prudent amount of total general obligation bonding for the following fiscal year, for support of the capital budget, in consideration of the recommendation of the capital debt affordability advisory committee pursuant to subchapter 8 of chapter 13 of this title.

(b) As soon as possible the committee shall prepare a bill to be known as the “capital construction bill,” which shall be introduced for action by the general assembly.

(c) ~~The sums appropriated and spending authority authorized by a capital construction act shall be continuing and shall not revert at the end of the fiscal year~~ carry forward until expended, unless otherwise provided. Any unencumbered funds remaining after a two-year period shall be reported to the general assembly and may be reallocated in future capital construction acts.

(d) On or before October 15, each entity to which spending authority is authorized by a capital construction act shall submit to the department of buildings and general services a report on the status of each project authorized. The report shall follow the form provided by the department of buildings and general services and shall include details regarding how much of the appropriation has been spent, how much of the appropriation is unencumbered, actual progress in meeting the goals of the project, and any impediments to completing the project on time and on budget. The department may request additional or clarifying information regarding each project. On or before January 15, the department shall present the information collected to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 34. 32 V.S.A. § 954 is amended to read:

§ 954. PROCEEDS

(a) The proceeds arising from the sale of such bonds, ~~except~~ inclusive of any premiums, shall be applied to the purposes for which they were authorized and such purposes shall be considered to include the expenses of preparing, issuing, and marketing such bonds and any notes issued under section 955 of

this title, and amounts for reserves, but no purchasers of such bonds shall be in any way bound to see to the proper application of the proceeds thereof. The state treasurer shall pay the interest on, principal of, investment return on, and maturity value of such bonds and notes as the same fall due or accrue without further order or authority. ~~Any premium received upon the sale of such bonds or notes shall be applied to the payment of the first principal or interest to come due thereon.~~ The state treasurer with the approval of the governor, may establish sinking funds, reserve funds, or other special funds of the state as he or she may deem for the best interest of the state. To the extent not otherwise provided, the amount necessary each year to fulfill the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on all such bonds then outstanding shall be included in and made a part of the annual appropriation bill for the expense of state government, and such principal and interest on, investment return and maturity value of, and sinking fund installments on the bonds as may come due before appropriations for the fulfillment thereof have been made shall be fulfilled from the applicable debt service fund.

* * *

Sec. 35. 32 V.S.A. § 962 is added to read:

§ 962. PRIVATE USE COMPLIANCE, NOTICE AND APPROVAL

Any entity receiving an appropriation financed with proceeds of tax-exempt bonds of the state shall notify and receive approval from the state treasurer and the secretary of administration at least 90 days prior to finalizing an agreement with a nonpublic or for-profit entity to rent, lease, sell, or otherwise dispose of property financed with those proceeds and also shall pay any cost related to compliance with the Internal Revenue Code of 1986, as amended, resulting from disposal of the property. This notification requirement shall not apply if the proceeds were included in the five percent allowance for private use prior to the issuance of bonds, or if the proceeds were provided, or the property was disposed of, as a grant or otherwise with no payment or repayment made or required to be made to the state or to the entity.

Sec. 36. 32 V.S.A. § 993 is added to read:

§ 993. PUBLIC APPROVAL, OUT-OF-STATE ISSUERS

Notwithstanding any provision to the contrary in Title 9, the governor, in consultation with the state treasurer, shall have exclusive authority to grant any public approval required under Section 147(f)(2) of the Internal Revenue Code of 1986, as amended, pertaining to the proposed issuance of qualified private activity bonds when the purpose of the bonds is to finance or refinance purposes to be located within the state and the bonds are proposed by any

issuers of qualified private activity bonds organized under the laws of a jurisdiction other than the state of Vermont. Approval shall not be withheld unless the governor, in consultation with the state treasurer, determines in good faith that the issuance is not financially sound.

* * * Judiciary and Corrections * * *

Sec. 37. JOINT COMMITTEE ON CORRECTIONS OVERSIGHT

During the 2012 interim, the joint committee on corrections oversight shall:

(1) explore how criminal justice services are being delivered currently in the Northwest quadrant of the state. The committee's work shall include a review of the current facilities in the Northwest quadrant of the state, a determination of whether those facilities have sufficient space for their current populations and provide sufficient supports related to housing, parenting, mental health, substance abuse, trauma, education, and job training, and a recommendation for further action regarding current and future facilities in the Northwest quadrant of the state. In addition to facilities, the committee shall also consider how criminal justice services generally are being delivered in the Northwest quadrant and whether there are any opportunities for improvement or collaboration to reduce the total number of individuals incarcerated. On or before January 15, 2013, the committee shall present its analysis together with any related proposals for legislation to the house and senate committees on judiciary and the house committee on corrections and institutions.

(2) monitor the progress of construction and improvements to existing programming at the Chittenden Regional Correctional Facility and determine whether the changes that have been made or any proposed changes to the facility or to programming are sufficient to ensure inmate health, safety, and human dignity.

Sec. 37a. SUSTAINABLE PRISONS

The commissioner of corrections, in collaboration with the department of buildings and general services, shall train corrections staff and inmates in sustainable practices for the reduction of energy usage, water consumption, and waste disposal at correctional facilities and to provide educational and green job training to inmates. The commissioners of buildings and general services and of corrections shall report to the general assembly on the progress of this training on or before January 15, 2013.

Sec. 37b. [Deleted]

Sec. 38. Sec. 22(a) of No. 179 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. 14 of No. 157 of the Acts of the 2009 Adj. Sess. (2010), is amended further to read:

(a) Secs. 11 and 12 of this act shall take effect on July 1, ~~2012~~ 2013.

* * * Information Technology * * *

Sec. 39. INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDS

In order for state government operations to be effective and efficient, timely and reasonable replacement and upgrading of information technology systems are appropriate and necessary. Over the last decade, capital funds have been used increasingly to pay for these important projects. However, there is not enough capital funding available to meet the existing uses of this fund. Therefore, the secretary of administration, working in collaboration with the state treasurer, shall review the options for funding these projects described in the administration's report titled "Information Technology Infrastructure Needs: A Study of Financing Options" published on January 13, 2011, including a base line appropriation or revolving loan fund. The secretary and treasurer shall present a recommendation of any required statutory changes to the house committee on corrections and institutions and the senate committee on institutions on or before January 15, 2013.

* * * Education * * *

Sec. 39a. BRATTLEBORO AREA HIGHER EDUCATION COLLABORATIVE

The chancellor of the Vermont State Colleges, in conjunction with the prekindergarten–16 council created in 16 V.S.A. § 2905 shall review and, if feasible, facilitate the development of a higher education collaborative or public–private partnerships in the Brattleboro area to develop a student curriculum and initiative to maximize resources for students and benefits to the region, including the development of a high-tech workforce, and to include the Community College of Vermont, Landmark College, Marlboro College, the Union Institute, the School of International Training, Vermont State Colleges, Vermont Technical College, and other interested institutions. In conducting its review, the council shall consider the five-college initiative in Northampton, Massachusetts.

* * * Capital Bill Definitions * * *

Sec. 40. DEFINITIONS

For purposes of this act:

(1) "Allocation" means the portion of an appropriation that is designated to fund a particular project.

(2) "Appropriation" means the spending authority granted to an entity to fund a group of projects.

(3) "Encumbrance" means a portion of an allocation reserved for the subsequent payment of existing purchase orders or contracts made in furtherance of completing a project, the total of which may not exceed the amount of the original allocation. The commissioner of finance and management shall make final decisions on the appropriateness of encumbrances.

Sec. 41. ENGINEERING COSTS

The joint fiscal office shall study during the 2012 interim how best to allocate engineering costs between the capital and general funds.

* * * Effective Dates and Statutory Revision * * *

Sec. 42. Sec. 57(a) of No. 40 of the Acts of 2011 is amended to read:

(a) This act shall take effect on passage, except:

(1) Sec. 36 (liability of the state) shall take effect July 1, 2011;

~~(2) Secs. 2(e) (BGS, FY 2013), 3(a)(2) (maps, FY 2013), 4(d) and (e) (human services, FY 2013), 5(b) (judiciary, FY 2013), 6(b) (BGS for commerce and community development, FY 2013), 6(d) (commerce and community development, FY 2013), 7(b) (building communities grants, FY 2013), 8(b) (education, FY 2013), 10(b) (University of Vermont, FY 2013), 11(b) (Vermont State Colleges, FY 2013), 12(b) (natural resources, FY 2013), 13(b) (military, FY 2013), 14(b) and (d) (public safety, FY 2013), 16(b) (agriculture, FY 2013), 17(b) (Vermont Public Television, FY 2013), 18(b) (rural fire protection, FY 2013), 20(b) (Vermont Center for Crime Victim Services, FY 2013), 21 (department of information and innovation), and 23(b) (Vermont Interactive Television, FY 2013) shall take effect on June 1, 2012.~~

Sec. 43. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal 3/27/2012)

NOTICE CALENDAR
Favorable with Amendment
S. 89

An act relating to Medicaid for Working Persons with Disabilities

Rep. French of Randolph, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ANALYSIS OF COSTS AND SAVINGS

(a) The agency of human services shall analyze the costs or savings associated with each of the following options:

(1) Entering into an agreement with the Social Security Administration in which the state pays the Medicare Part B premium for individuals enrolled in the Medicaid for Working People with Disabilities program.

(2) Increasing or eliminating the income limits or asset limits or both for eligibility for the Medicaid for Working People with Disabilities program.

(3) Disregarding spousal income or spousal assets or both when determining eligibility for the Medicaid for Working People with Disabilities program.

(4) Disregarding the income of a spouse enrolled in the Medicaid for Working People with Disabilities program when determining the other spouse's eligibility to receive Medicaid benefits.

(5) Permitting an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) immediately preceding a hospitalization or period of temporary unemployment to maintain his or her Medicaid eligibility during that period, as long as the period of hospitalization or unemployment does not exceed 90 days.

(6) Allowing an individual's enrollment in the Medicaid for Working People with Disabilities program to establish his or her eligibility for developmental disability services under Vermont's Global Commitment to Health waiver.

(7) Using benefits counselors at public and nonprofit organizations to increase public awareness of the Medicaid for Working People with Disabilities program and other work incentives for individuals with disabilities.

(b) No later than January 15, 2013, the secretary of human services shall report to the house committees on human services and on appropriations and the senate committees on health and welfare and on appropriations the results

of the analysis conducted pursuant to subsection (a) of this section, as well as recommendations about whether and how to pursue any or all of the options described in subdivisions (a)(1) through (7) of this section.

Sec. 2. SPOUSAL INCOME DISREGARD; RULEMAKING

(a) If supported by the analysis performed pursuant to Sec. 1(a)(4) of this act, the secretary of human services shall disregard the income of an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) in determining the eligibility of such person's spouse to receive medical assistance pursuant to Title XIX (Medicaid) of the Social Security Act. The secretary shall implement the income disregard in a timely manner in order to ensure that it will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

(b) The secretary of human services shall adopt rules pursuant to 3 V.S.A. chapter 25 as necessary to implement the income disregard.

Sec. 3. DEVELOPMENTAL DISABILITY SERVICES

If supported by the analysis performed pursuant to Sec. 1(a)(6) of this act, the secretary of human services shall deem an individual's enrollment in the Medicaid for Working People with Disabilities program as establishing his or her financial eligibility for developmental disability services under the state's Global Commitment to Health waiver; provided that the individual shall still be required to meet clinical eligibility and funding priority criteria in order to receive developmental disability services pursuant to the waiver. The secretary shall implement the change to the financial eligibility criteria in a timely manner in order to ensure that it will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

Sec. 4. ORGAN AND TISSUE DONATION

(a) Subject to available resources, the commissioner of health shall undertake such actions as are necessary and appropriate, in his or her discretion, to coordinate the efforts of public and private entities involved with the donation and transplantation of human organs and tissues in Vermont and to increase organ and tissue donation rates.

(b) No later than January 15, 2013, the commissioner shall report to the house committee on human services and the senate committee on health and welfare regarding the actions taken pursuant to subsection (a) of this section and any additional efforts that the commissioner recommends but believes would require legislation.

Sec. 5. ORGAN AND TISSUE DONATION WORKING GROUP

(a) There is created an organ and tissue donation working group to make recommendations to the general assembly and the governor relating to organ and tissue donations.

(b) The members of the organ and tissue donation working group shall include:

(1) the commissioner of health or designee, who shall chair the working group;

(2) the commissioner of motor vehicles or designee;

(3) a representative of the Vermont Medical Society;

(4) representatives from the federally designated organ procurement organizations serving Vermont; and

(5) other interested stakeholders.

(c) The working group shall develop recommendations regarding:

(1) coordination of the efforts of all public and private entities within the state that are involved with the donation and transplantation of human organs and tissues;

(2) the creation of a comprehensive statewide program for organ and tissue donations and transplants;

(3) the establishment of goals and strategies for increasing donation rates in Vermont of deceased and, where appropriate, live organs and tissues;

(4) other issues related to organ and tissue donation and transplantation.

(d) The working group shall receive administrative support from the department of health.

(e) The working group shall report its findings and recommendations to the house committees on human services, on health care, and on transportation and the senate committees on health and welfare and on transportation, and to the governor, by January 15, 2013, after which time the working group shall cease to exist. The report shall include a recommendation about whether the department of health should establish an ongoing advisory council on organ and tissue donation.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to organ and tissue donation and Medicaid for Working Persons with Disabilities”

(Committee vote: 11-0-0)

(For text see Senate Journal 3/27/2012)

S. 244

An act relating to referral to court diversion for driving with a suspended license

Rep. Waite-Simpson of Essex, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 2, in subdivision (b)(1), by striking “pursuant to 23 V.S.A. §§ 674 or 676”

Second: In Sec. 2, in subsection (e), by striking “department shall reinstate the person’s operator’s license” and inserting in lieu thereof “person shall be eligible to have his or her license reinstated.”

Third: In Sec. 2, by striking subsection (k) and inserting in lieu thereof a new subsection (k) to read:

(k) The court administrator, the director of the court diversion program, and the commissioner of motor vehicles shall jointly report to the general assembly on or before December 15, 2014 on the following:

- (1) implementation of the DLS diversion program;
- (2) the number of people enrolled in the program;
- (3) the number of people who have successfully completed the program;
- (4) the number of licenses reinstated;
- (5) the number of fines and amounts modified;
- (6) additional money collected by the state as a result of the program;
- (7) the advisability of implementing the program through roadside stops for driving without a license; and
- (8) extending the program to persons who are currently prohibited from participation pursuant to subdivision (b)(2) of this section.

Fourth: By adding a Sec. 2a to read as follows:

Sec. 2a. 23 V.S.A. § 674(a)(3) is added to read:

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the driving with license suspended diversion program shall not be counted as prior offenses under subdivision (2) of this subsection.

Fifth: By adding a Sec. 2b to read as follows:

Sec. 2b. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

* * *

(4) Five points assessed for:

* * *

(D) § ~~676.~~

~~Operating after suspension, revocation or refusal — civil violation;~~

* * *

(5) Ten points assessed for:

(A) § ~~674.~~

~~Operating after suspension or revocation of license;~~

* * *

Sixth: By adding a Sec. 2c to read as follows:

Sec. 2c. 23 V.S.A. § 2506 is amended to read:

§ 2506. PROCEDURE

When a sufficient number of points have been acquired, the commissioner shall suspend the license of an operator or the privilege of an unlicensed person, or nonresident to operate a motor vehicle, upon not less than 10 days' notice, and upon hearing, if requested for verification of the conviction records. The suspension shall be for 10 days for an accumulation of 10 points, 30 days for 15 points, 90 days for 20 points and for a period increasing by 30 days for each additional 5 points; except the suspension period for a conviction for first offense of sections ~~674~~, 1091, 1094, 1128, and 1133 of this title shall be 30 days; for a second conviction 90 days and for a third or subsequent six months, or the suspension period under the point values,

whichever is greater. If a fatality occurs, the suspension shall be for a period of one year in addition to the suspension under the point values. For purposes of this section, a month shall be considered as 30 days and one year shall equal 365 days.

Seventh: By adding a Sec. 5 to read as follows:

Sec. 5. SUNSET

This act shall be repealed on July 1, 2015.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/15/2012)

S. 251

An act relating to miscellaneous amendments to laws pertaining to motor vehicles

Rep. Lanpher of Vergennes, for the Committee on **Transportation**, recommends that the House propose to the Senate that the bill be amended as follows:

by adding four new sections after Sec. 11 to be sections 12–15 to read as follows:

* * * Gold Star and Next-of-kin Registration Plates* * *

Sec. 12. 23 V.S.A. § 304(k) is amended to read:

(k)(1) The commissioner of motor vehicles shall, upon proper application, issue special gold star and next-of-kin plates to gold star family members, as defined for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, as follows:

(A) Gold star plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces who lost their lives under the circumstances described in 10 U.S.C. § 1126, for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan 1126(a).

(B) Next-of-kin plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces not eligible for gold star plates under subdivision (A) of this subdivision (1) who lost their lives while serving on active duty or on active duty for training, or while assigned in a reserve or national guard unit in drill

status, or as a result of injury or illness incurred during such service or assignment.

(2) The type and style of the gold star ~~plate~~ and next-of-kin plates shall be determined by the commissioner and the Vermont office of veterans' affairs, except that a gold star shall appear on one side of ~~the plate~~ gold star plates and a distinct emblem shall be approved for next-of-kin plates. An applicant shall apply on a form prescribed by the commissioner, and the applicant's eligibility will be certified by the office of veterans' affairs. A plate shall be reissued only to the original holder of the plate. The commissioner may adopt rules to implement the provisions of this subsection. Except for new or renewed registrations, applications for the issuance of gold star or next-of-kin plates shall be processed in the order received by the department subject to normal workflow considerations.

* * * Emergency Services; Recovery of Expenses * * *

Sec. 13. 23 V.S.A. § 1112 is amended to read:

§ 1112. CLOSED HIGHWAYS

(a) Except by the written permit of the authority responsible for the closing, no person shall drive any vehicle over any highway across which there is a barrier or a sign indicating that the highway is closed to public travel.

(b) A person, including a municipal, county, or state entity, that deploys police, fire, ambulance, rescue, or other emergency services in order to aid a stranded operator of a vehicle, or to move a disabled vehicle, operated on a closed highway in violation of this section, may recover from the operator in a civil action the costs of providing any such services.

* * * Operating on a Closed Highway; Assessment of Points * * *

Sec. 14. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL) § 1095. ~~Operating with television set installed~~
Entertainment picture visible to the operator;

(MM) § 1099. Texting prohibited—first offense;

(NN)	§ 1112.	<u>Closed highways;</u>
(NN) (OO)	§ 1113.	Illegal backing;
(OO) (PP)	§ 1114.	Illegal riding on motorcycles;
(PP) (QQ)	§ 1115.	Illegal operation of motorcycles on roadways laned for traffic;
(QQ) (RR)	§ 1116.	Clinging to other vehicles;
(RR) (SS)	§ 1117.	Illegal footrests and handlebars;
(SS) (TT)	§ 1118.	Obstructing the driver's view;
(TT) (UU)	§ 1119.	Improper opening and closing vehicle doors;
(UU) (VV)	§ 1121.	Coasting prohibited;
(VV) (WW)	§ 1122.	Following fire apparatus prohibited;
(WW) (XX)	§ 1123.	Driving over fire hose;
(XX) (YY)	§ 1124.	Position of operator;
(YY) (ZZ)	§ 1127.	Unsafe control in presence of horses and cattle;
(ZZ) (AAA)	§ 1131.	Failure to give warning signal;
(AAA) (BBB)	§ 1132.	Illegal driving on sidewalk;
(BBB) (CCC)	§ 1243.	Lighting requirements;
(CCC) (DDD)	§ 1256.	Motorcycle headgear;
(DDD) (EEE)	§ 1257.	Face protection;
(EEE) (FFF)	§ 800.	Operating without financial responsibility;
(FFF) (GGG)		All other moving violations which have no specified points;

* * *

* * * Conforming Change * * *

Sec. 15. 23 V.S.A. § 3501(5) is amended to read:

(5) "All-terrain vehicle" or "ATV" means any nonhighway recreational vehicle, except snowmobiles, having no less than two low pressure tires (10

pounds per square inch, or less), not wider than 60 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and ~~(ZZ)~~(BBB); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device. and by renumbering the remaining section to be numerically correct.

(Committee vote: 10-0-1)

(No Senate amendments)

Senate Proposal of Amendment

H. 53

An act relating to the Interstate Wildlife Violator Compact

The Senate proposes to the House to amend the bill as follows:

§ 4454. PENALTIES

(a) Notwithstanding section 4502 of this title, the commissioner may suspend a Vermont hunting, fishing, or trapping license and privileges to obtain such licenses of a person convicted of a wildlife violation in a state party to the compact, provided that the wildlife violation would have been the basis for suspension of license privileges in Vermont.

(b) No person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife, having been suspended or revoked pursuant to this chapter, shall be permitted to obtain a license to hunt, fish, or trap in Vermont.

(c) A person shall be subject to the financial penalties as set forth under section 4518 of this title if he or she:

(1) hunts, fishes, traps, possesses, or transports wildlife in Vermont in violation of a suspension or revocation of a license under chapter 108 of this title; or

(2) purchases or possesses a license to hunt, fish, trap, possess, or transport wildlife in Vermont in violation of a suspension or revocation of a license under chapter 108 of this title.

(d)(1) Prior to suspending a Vermont hunting, fishing, or trapping license of a resident of this state under subsection (a) of this section, the commissioner

shall notify the person in writing. A suspension shall be deemed effective:

(A) when given if notice is made in person; or

(B) three days after the deposit of notice in the United States mails, if notice is made in writing.

(2) A person receiving notice under subsection (a) of this section may, within 20 days of the date notice is given, request a hearing before the commissioner on whether the requirements for suspension or penalty have been met. The requesting person may present evidence and arguments at the hearing only regarding whether:

(A) A participating state suspended the person's privileges;

(B) There was a conviction in the participating state;

(C) The person failed to comply with the terms of a citation issued for a wildlife violation in a participating state; or

(D) A conviction in a participating state could have led to a license suspension or penalty in Vermont

(3) At the hearing, the commissioner or a hearing officer designated by the commissioner may:

(A) Administer oaths;

(B) Issue subpoenas for the attendance of witnesses; and

(C) Admit all relevant evidence and documents, including notifications from participating states.

(4) Following a hearing under this subsection, the commissioner or a designated hearing officer may, based on the evidence, affirm, modify, or rescind the suspension of a license.

(5) A decision of the commissioner or hearing officer under this section shall not be appealable.

Second: By striking Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. 10 V.S.A. § 4502 is amended to read:

§ 4502. UNIFORM POINT SYSTEM; REVOCATION OF LICENSE

(a) A uniform point system which assigns points to those convicted of a violation of a provision of this part is established. The conviction report from the court shall be prima facie evidence of the points assessed. In addition to other penalties assessed for violation of fish and wildlife statutes, the

commissioner shall suspend licenses issued under this part which are held by a person who has accumulated ten or more points in accordance with the provisions of subsection (c) of this section.

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

* * *

(3) Twenty points shall be assessed for:

(A) § 4192. General powers and duties-failure to obey warden

* * *

(U) Appendix § 37, excluding violations of annual deer limits, requirements for youth deer hunting weekend, and limitations on feeding of deer.

(V) § 4454. Interstate Wildlife Violator Compact.

* * *

(For text see House Journal 5/2/2011)

H. 440

An act relating to creating an agency and secretary of education and clarifying the purpose of the state board

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

Sec. 1. 3 V.S.A. chapter 49 is added to read:

CHAPTER 49. EDUCATION

§ 2701. AGENCY AND SECRETARY CREATED

There is created an agency of education that shall be under the direction and supervision of a secretary of education.

§ 2702. SECRETARY OF EDUCATION

(a) With the advice and consent of the senate, the governor shall appoint a secretary of education from among no fewer than three candidates proposed by the state board of education. The secretary shall serve at the pleasure of the governor.

(b) The secretary shall report directly to the governor and shall be a member of the governor's cabinet.

(c) At the time of appointment, the secretary shall have expertise in education management and policy and demonstrated leadership and management abilities.

Sec. 2. 16 V.S.A. § 161 is amended to read:

§ 161. STATE BOARD OF EDUCATION; APPOINTMENT OF MEMBERS; TERM; VACANCY

The state board shall consist of ten members. Two of the members shall be secondary students, one of whom shall be a full member and the other of whom shall be a junior member who may not vote. All members shall be appointed by the governor with the advice and consent of the senate. In the appointment of the nonstudent members ~~consideration,~~ priority shall be given to the selection of such persons as shall adequately represent all sections of the state with a demonstrated commitment to ensuring quality education for Vermont students. To the extent possible, the members shall represent geographically diverse areas of the state. The secretary shall serve on the state board as a nonvoting member.

* * *

Sec. 3. 16 V.S.A. § 163 is amended to read:

§ 163. ~~OFFICE STAFF; MEETINGS~~

(a) ~~The office of the board shall be the office of the commissioner of education~~ The board shall be supported by adequate staff, who shall report to the board.

(b) The board shall meet monthly and shall hold special meetings as required for the performance of its duties. The times and places for regular and special meetings shall be designated by the ~~chairman~~ chair of the board. The ~~chairman~~ chair shall call a special meeting upon the written request of any two members.

Sec. 4. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD, GENERAL POWERS AND DUTIES

The state board shall ~~have supervision over, and management of the department of education and the public school system, except as otherwise provided; and shall~~ evaluate education policy proposals, including timely evaluation of policies presented by the governor and secretary; engage local school board members and the broader education community; and establish and advance education policy for the state of Vermont. In addition to other specified duties, the board shall:

* * *

~~(4) Biennially or as required by the governor cause to be prepared a budget for all money to be expended by the department of education. Review and comment on an agency budget prepared by the secretary for the governor.~~

~~***~~

~~(10) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices which improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment. [Repealed.]~~

~~***~~

~~(19) Develop, in consultation with the secretary of state, and make available to school boards, sample ballot language for items which may be voted on by Australian ballot and for which no statutory language exists. [Repealed.]~~

~~***~~

~~(21) Report annually to the governor and the general assembly on the progress the board has made on the development of education policy for the state.~~

Sec. 5. 16 V.S.A. § 212(18), (19), (20), and (21) are added to read:

(18) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices that improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment.

(19) Develop, in consultation with the secretary of state, and make available to school boards sample ballot language for issues that may be decided by Australian ballot and for which no statutory language exists.

(20) Prepare a budget for the agency and submit it to the governor after review by the state board.

(21) Annually, prior to September 1, present the governor's education policy priorities to the state board.

Sec. 6. REPEAL

16 V.S.A. § 211 (appointment of commissioner by board of education; commissioner's reports to board) is repealed.

*** Transition ***

Sec. 7. AGENCY OF EDUCATION; SECRETARY OF EDUCATION;
POWERS AND DUTIES

On January 1, 2013:

(1) the secretary of education shall assume all the powers, duties, rights, and responsibilities of the commissioner of education; provided, however, that if a secretary appointed by the governor has not assumed office by January 1, 2013, then the commissioner or acting commissioner of the department on that date shall continue to perform the duties until the day on which the secretary assumes office; and

(2) the agency of education shall assume all the powers, duties, rights, and responsibilities of the department of education.

Sec. 8. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

On or before January 15, 2013, the legislative council shall prepare and submit a draft bill to the house and senate committees on education that makes statutory amendments of a technical nature and identifies all statutory sections that the general assembly must amend substantively to effect the intent of this act.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 7 (assumption of powers and duties) and 8 (legislative council) of this act shall take effect on passage.

(b) Secs. 1 (creation of agency), 2 (secretary as nonvoting member of board), and 6 (repeal of board's power to appoint commissioner) of this act shall take effect on January 1, 2013.

(c) Secs. 3 (board staff), 4 (board duties), and 5 (secretary's duties) of this act shall take effect on April 1, 2013.

(For text see House Journal 3/21/2012 and 3/22/2012)

H. 464

An act relating to a moratorium on hydraulic fracturing wells for natural gas and oil production

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

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The drilling practice of hydraulic fracturing for natural gas exploration and production uses a variety of chemicals that are pumped into natural gas or oil wells.

(2) During hydraulic fracturing, chemicals and waste fluid pumped into wells may be introduced into and contaminate drinking water aquifers.

(3) To ensure that the state's underground sources of drinking water remain free of contamination, the general assembly should prohibit hydraulic fracturing for the purpose of the recovery of oil or natural gas until it is determined that hydraulic fracturing can be conducted without risk of contamination to the groundwater of Vermont.

(4) When hydraulic fracturing can be conducted without risk of contamination to the groundwater of Vermont, the general assembly should repeal the prohibition on hydraulic fracturing for oil and natural gas recovery.

Sec. 2. 29 V.S.A. § 503 is amended to read:

§ 503. DEFINITIONS

As used in this chapter:

* * *

(8) "Gas" means all natural gas, whether hydrocarbon or nonhydrocarbon, including hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casinghead gas, and all other fluid hydrocarbons not defined as oil.

* * *

(15) "Oil" means crude petroleum, oil, and all hydrocarbons, regardless of specific gravity, that are in the liquid phase in the reservoir and are produced at the wellhead in liquid form.

(16) "Oil and gas" means both oil and gas, or either oil or gas, as the context may require to give effect to the purposes of this chapter.

* * *

(29) "Fluid" means any material or substance which flows or moves whether in semi-solid, liquid, sludge, gas, or any other form or state.

(30) "Hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or gas.

Sec. 3. 29 V.S.A. chapter 14, subchapter 8 is added to read:

Subchapter 8. Hydraulic Fracturing for Oil or Gas Recovery

§ 571. HYDRAULIC FRACTURING; PROHIBITION

(a) No person may engage in hydraulic fracturing in the state.

(b) No person may collect, store, or treat the wastewater from hydraulic fracturing in a manmade lagoon or pond in the state.

Sec. 4. 10 V.S.A. § 1259 is amended to read:

§ 1259. PROHIBITIONS

(a) No person shall discharge any waste, substance, or material into waters of the state, nor shall any person discharge any waste, substance, or material into an injection well or discharge into a publicly owned treatment works any waste which interferes with, passes through without treatment, or is otherwise incompatible with those works or would have a substantial adverse effect on those works or on water quality, without first obtaining a permit for that discharge from the secretary. This subsection shall not prohibit the proper application of fertilizer to fields and crops, nor reduce or affect the authority or policy declared in joint house resolution 7 of the 1971 session of the general assembly.

* * *

(c) No person shall cause a direct discharge into Class A waters of any wastes that, prior to treatment, contained organisms pathogenic to human beings. Except within a waste management zone, no person shall cause a direct discharge into Class B waters of any wastes that prior to treatment contained organisms pathogenic to human beings.

(d) No person shall cause a discharge of wastes into Class A waters, except for on-site disposal of sewage from systems with a capacity of 1,000 gallons per day (gpd), or less, that are either exempt from or comply with the environmental protection rules, or existing systems, which shall require a permit according to the provisions of subsection 1263(f) of this title.

* * *

(j) No person shall discharge waste from hydraulic fracturing, as that term is defined in 29 V.S.A. § 503, into or from a pollution abatement facility, as that term is defined in section 1571 of this title.

Sec. 5. AGENCY OF NATURAL RESOURCES REPORT; SAFETY OF HYDRAULIC FRACTURING FOR OIL OR NATURAL GAS RECOVERY

(a) On or before January 15, 2013, and annually thereafter, the secretary of natural resources shall submit to the senate and house committees on natural resources and energy and the house committee on fish, wildlife and water resources a report regarding:

(1) whether the process of hydraulic fracturing for the purpose of the production or recovery of oil or natural gas can be conducted in a manner that prevents contamination of groundwater; and

(2) whether the prohibition on the use of hydraulic fracturing for oil or natural gas recovery under 29 V.S.A. § 571 should be repealed.

(b) A recommendation under this section shall be based on regulatory guidance, industry practices, and scientific studies that are available to the secretary at the time of a report required under subsection (a) of this section.

Sec. 6. AGENCY OF NATURAL RESOURCES; UNDERGROUND INJECTION CONTROL RULEMAKING

When the secretary of natural resources amends the rules regulating the discharge of waste into an injection well, including those discharges into an injection well for oil and gas recovery for which the agency of natural resources has jurisdiction, the amended rules shall provide that no permit shall be issued under 10 V.S.A. chapter 47 for a discharge of waste into an injection well when such a discharge would endanger an underground source of drinking water.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to hydraulic fracturing wells for natural gas and oil production”

(For text see House Journal 1/31/2012)

H. 484

An act relating to amendment to the Windham solid waste district charter

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 2, 24 App. V.S.A. chapter 417, in § 1, by striking out the following: “The member towns of the District are those identified on Attachment A”

Second: In Sec. 2, 24 App. V.S.A. chapter 417, in § 43, by striking out the word “CHARGE” in the section title and inserting in lieu thereof the word CHARGES

Third: In Sec. 2, 24 App. V.S.A. chapter 417, in § 62, in subdivision (4), by striking out the words “but not limited to” where it appears in the first sentence

(For text see House Journal 3/20/2012)

S. 181

An act relating to school resource officers

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

In Sec. 1, 16 V.S.A. § 1167, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) School boards and law enforcement agencies are encouraged to enter into memoranda of understanding relating to:

(1) the possession and use of weapons and devices by a school resource officer on school property; and

(2) the nature and scope of assistance that a school resource officer will provide to the school system.

(For House Proposal of Amendment see House Journal 4/5/2012)

Ordered to Lie

H. 775

An act relating to allowed interest rates for installment loans.

Pending Action: Second Reading of the bill.

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 4/19/2012.

H.C.R. 353

House concurrent resolution designating May 6–12, 2012 as National Nurses Week in Vermont

H.C.R. 354

House concurrent resolution congratulating the Bromley Mountain Ski Resort and the Bromley Outing Club on celebrating their respective 75th and 60th anniversaries

H.C.R. 355

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks 2012 Division I championship girls' Nordic ski team

H.C.R. 356

House concurrent resolution commemorating the 25th anniversary of the Rutland Open Door Mission at its Park Street location

H.C.R. 357

House concurrent resolution in memory of Allyn Seward of East Wallingford

H.C.R. 358

House concurrent resolution congratulating Circus Smirkus on its 25th anniversary

H.C.R. 359

House concurrent resolution congratulating Marita Johnson on being named the Springfield Regional Chamber of Commerce's 23rd Annual Citizen of the Year

H.C.R. 360

House concurrent resolution honoring Brian Lowe for his volunteer ornithological protection activities

H.C.R. 361

House concurrent resolution congratulating the Woodstock Union High School Wasps on winning their third consecutive Division II boys' Nordic skiing championship

H.C.R. 362

House concurrent resolution honoring the educational and community leadership of Jerry Sullivan

H.C.R. 363

House concurrent resolution congratulating Alfred L. Pinsonneault Jr. on 50 exemplary years of service with the Town of Bennington Rescue Squad, Inc.

H.C.R. 364

House concurrent resolution honoring Andreas Lehner for his outstanding administrative leadership in public education

H.C.R. 365

House concurrent resolution congratulating the South Burlington Dolphins on winning the 2011 Northern Vermont Youth Football League state championship

H.C.R. 366

House concurrent resolution designating April as the month of the military child in Vermont

H.C.R. 367

House concurrent resolution congratulating Blanche Lamore on her 100th birthday

H.C.R. 368

House concurrent resolution remembering the life of U.S. Army Major Jonathan Kirk Weaver

H.C.R. 369

House concurrent resolution congratulating the Rochester School winners of the 2012 Vermont aviation art contest

S.C.R. 43

Senate concurrent resolution designating May 2012 as Lupus Awareness Month in Vermont

S.C.R. 44

Senate concurrent resolution congratulating Robert Swartz on being named the 2012 Northeast Kingdom Chamber Citizen of the Year