

# Senate Calendar

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FRIDAY, MARCH 30, 2012

**SENATE CONVENES AT: 11:30 A.M.**

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**ACTION CALENDAR**  
**UNFINISHED BUSINESS**  
**Joint Resolution for Action**

**J.R.S. 52.**

Joint resolution relating to the issuance of a commemorative United States postage stamp in honor of former United States Senator George D. Aiken.

(For text of resolution, see Senate Journal of March 21, 2012, page 401.)

**NEW BUSINESS**

**Third Reading**

**H. 634.**

An act relating to remedies for failure to pay municipal tickets.

**Second Reading**

**Favorable**

**H. 39.**

An act relating to persons authorized to direct disposition of service members' remains.

**Reported favorably by Senator Flory for the Committee on Government Operations.**

(Committee vote: 4-0-1)

**Favorable with Proposal of Amendment**

**H. 21.**

An act relating to the mutual benefit enterprise act.

**Reported favorably with recommendation of proposal of amendment by Senator Cummings for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, in 11C V.S.A. § 203(a), in the second sentence, following the words “filed record” by striking out the words “and a receipt for the fees”

Second: In Sec. 1, in 11C V.S.A. § 207(a), by striking out the word “and” in subdivision (3), by redesignating subdivision (4) as subdivision (5), and by inserting a new subdivision (4) to read as follows:

(4) the name and business address of any director or officer; and

Third: In Sec. 1, in 11C V.S.A. § 207, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) A mutual benefit enterprise or foreign enterprise authorized to transact business in this state shall deliver its annual report to the secretary for filing between January 1 and April 1 of each year, beginning in the year following the calendar year in which the mutual benefit enterprise is formed or the foreign enterprise is authorized to transact business in this state.

Fourth: In Sec. 1, in 11C V.S.A. § 207(e), following the words “designated office,” by striking out the words “the name of the agent for service of process” and inserting in lieu thereof the following: the name or business address of a director or officer

Fifth: In Sec. 1., by striking out 11C V.S.A. § 1214 in its entirety and redesignating that section as “[Reserved.]”

(Committee vote: 6-0-1)

(For House amendments, see House Journal for April 13, 2011, page 947.)

#### **H. 449.**

An act relating to the designation of brook trout and walleye pike as the state fish of Vermont.

**Reported favorably with recommendation of proposal of amendment by Senator MacDonald for the Committee on Natural Resources and Energy.**

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 1, by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) the original designation of these two fish was championed by the students of Cornwall Elementary School, whose efforts resulted in a Joint Resolution, approved by the General Assembly on May 3, 1978 (J.R.S. 41), designating the two state fish.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for January 26, 2012, page 95.)

## NOTICE CALENDAR

### Favorable

#### H. 378.

An act relating to town payments of county taxes.

**Reported favorably by Senator Ayer for the Committee on Government Operations.**

(Committee vote: 4-0-1)

#### H. 758.

An act relating to divorce and dissolution proceedings.

**Reported favorably by Senator Snelling for the Committee on Judiciary.**

(Committee vote: 4-0-1)

(No House amendments)

### Favorable with Recommendation of Amendment

#### S. 99.

An act relating to agricultural economic development.

**Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. FINDINGS AND PURPOSE

The general assembly finds:

(1) The damage resulting throughout Vermont from both the 2011 spring flooding and from Tropical Storm Irene had a devastating impact in many areas on mobile homes and mobile home parks.

(2) Given that mobile homes represent one of few available affordable housing options in the state, these storms caused significant hardship for many lower and middle income Vermonters whose homes were damaged or destroyed.

(3) Although the local, state, and federal housing and disaster relief officials have worked cooperatively throughout the recovery, questions on authority to issue condemnation letters to homeowners who could then apply

for FEMA assistance may have cost some homeowners the opportunity for significant federal reimbursement for their destroyed homes.

(4) Given the economic costs endured by mobile home owners, it is appropriate at this time to exempt the purchase of mobile homes from sales and use tax, local option sales tax, and property transfer tax when such homes are purchased to replace homes destroyed by recent flooding and natural disasters.

(5) During the course of exploring the issues surrounding the impacts of these disasters, it is apparent that mobile home owners and mobile home park owners face unique economic pressures, and more assistance should be focused to facilitate the availability and ownership of modern, safe, mobile homes and the availability of suitable lots, and to facilitate the sale of parks to residents or nonprofit entities in order to preserve affordability and availability of housing.

(6) It is the purpose of this act to focus state, municipal, and private resources on assisting mobile home owners recovering from the storms, and on ensuring that in the long term, Vermonters have an adequate supply of safe, affordable housing.

Sec. 2. 10 V.S.A. chapter 153 is amended to read:

#### CHAPTER 153. MOBILE HOME PARKS

##### § 6201. DEFINITIONS

As used in this chapter, unless the context requires otherwise:

(1) “Mobile home” means:

(A) a structure or type of manufactured home, including the plumbing, heating, air-conditioning, and electrical systems contained in the structure, that is:

(i) built on a permanent chassis ~~and is;~~

(ii) designed to be used as a dwelling with or without a permanent foundation, ~~includes plumbing, heating, cooling, and electrical systems, and is: when connected to the required utilities;~~

~~(A)(iii)~~ (iii) transportable in one or more sections; and

~~(B)(iv)(I)~~ (I) at least eight feet wide ~~or~~, 40 feet long, or when erected has at least 320 square feet; or

(II) if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

~~(C)(B)~~ (B) any structure that meets all the requirements of this subdivision (1) except ~~for~~ the size requirements, and for which the

manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the construction and safety standards established under Title 42 of the U.S. Code.

\* \* \*

(4) ~~“Commission” means the advisory commission on manufactured homes, established under section 6202 of this title. [Repealed.]~~

\* \* \*

(8) ~~“Department” means the department of housing and community affairs~~ department of economic, housing and community development.

(9) “Good faith” means honesty in fact and the observance of reasonable standards and fair dealing, such that each party shall respond promptly and fairly to offers from the other party.

(10) ~~[Expired.]~~ “Lot rent” means a charge assessed on a mobile home park resident for the occupancy of a mobile home lot, but does not include charges permitted under section 6238 of this title.

(11) ~~“Commissioner” means the commissioner of housing and community affairs~~ economic, housing and community development.

\* \* \*

#### § 6231. RULES

(a) [Deleted.]

(b) The department may adopt rules to carry out the provisions ~~of sections 6236-6243~~ of this ~~title~~ chapter.

(c) A mobile home park that has been closed pursuant to section 6237a of this title and reduced to no more than two occupied leased lots, shall be required, if the number of occupied leased lots subsequently is increased to more than two, to obtain all state land use and environmental permits required for a mobile home park that has been established or expanded after May 31, 1970.

#### § 6236. LEASE TERMS; MOBILE HOME PARKS

\* \* \*

(e) All mobile home lot leases shall contain the following:

\* \* \*

(3) Notice that the park owner shall not discriminate for reasons of race, religious creed, color, sex, sexual orientation, gender identity, marital status,

~~handicap disability, or~~ national origin, or because a person is a recipient of public assistance.

(4) Notice that the park owner shall not discriminate based on age or the presence of one or more minor children in the household, except as permitted under 9 V.S.A. § 4503(b) and (c). If age restrictions exist in all or part of a park, the specific restrictions and geographic sections in which restrictions apply shall be documented in the lease.

\* \* \*

#### § 6237. EVICTIONS

(a) A leaseholder may be evicted only for nonpayment of rent or for a substantial violation of the lease terms of the mobile home park, or if there is a change in use of the park land or parts thereof or a termination of the mobile home park, and only in accordance with the following procedure:

\* \* \*

(4) A substantial violation of the lease terms, other than an uncured nonpayment of rent, will be insufficient to support a judgment of eviction unless the proceeding is commenced within 60 days of the last alleged violation. A substantial violation of the lease terms based upon criminal activity will be insufficient to support a judgment of eviction unless the proceeding is commenced no later than 60 days after arraignment.

\* \* \*

#### § 6237a. MOBILE HOME PARK CLOSURES

\* \* \*

(b) Prior to issuing a closure notice pursuant to subsection (a) of this section, a park owner shall first ~~notify all mobile home owners of the park owner's~~ issue a notice of intent to sell in accordance with section 6242 of this title that discloses the potential closure of the park. However, if the park owner sends a notice of closure to the residents and leaseholders without first providing the mobile home owners with a notice of ~~sale~~ intent to sell under section 6242 that discloses the potential closure of the park, then the park owner must retain ownership of the land for five years after the date the closure notice was provided. If required, the park owner shall record the notice of the five-year restriction in the land records of the municipality in which the park is located. The park owner may apply to the commissioner for relief from the notice and holding requirements of this subsection if the commissioner determines that strict compliance is likely to cause undue hardship to the park owner or the leaseholders, or both. This relief shall not be unreasonably withheld.



\* \* \*

(d) A park owner who gives notice of intent to sell pursuant to section 6242 of this title shall not give notice of closure until after:

(1) At least 45 days after giving notice of intent to sell.

(2) If applicable, the commissioner receives notice from the mobile home owners and the park owner that negotiations have ended following the ~~90-day~~ 120-day negotiation period provided in subdivision 6242(c)(1) of this title.

\* \* \*

#### § 6242. MOBILE HOME OWNERS' RIGHT TO NOTIFICATION PRIOR TO PARK SALE

(a) Content of notice. A park owner shall give to each mobile home owner and to the commissioner of the department of economic, housing and community affairs development notice by certified mail of his or her intention to sell the mobile home park. Nothing herein shall be construed to restrict the price at which the park owner offers the park for sale. The notice shall state all the following:

(1) That the park owner intends to sell the park.

(2) The price, terms, and conditions under which the park owner offers the park for sale.

(3) A list of the affected mobile home owners and the number of leaseholds held by each.

(4) The status of compliance with applicable statutes, regulations and permits, to the park owner's best knowledge, and the reasons for any noncompliance.

(5) That for 45 days following the notice the park owner shall not make a final unconditional acceptance of an offer to purchase the park and that if within the 45 days the park owner receives notice pursuant to subsection (c) of this section that a majority of the mobile home owners intend to consider purchase of the park, the park owner shall not make a final unconditional acceptance of an offer to purchase the park for an additional ~~90~~ 120 days, starting from the 46th day following notice, except one from a group representing a majority of the mobile home owners or from a nonprofit corporation approved by a majority of the mobile home owners.

(b) Resident intent to negotiate; timetable. The mobile home owners shall have 45 days following notice under subsection (a) of this section in which to determine whether they intend to consider purchase of the park through a group representing a majority of the mobile home owners or a nonprofit

corporation approved by a majority of the mobile home owners. A majority of the mobile home owners shall be determined by one vote per leasehold and no mobile home owner shall have more than three votes or 30 percent of the aggregate park vote, whichever is less. During this 45-day period, the park owner shall not accept a final unconditional offer to purchase the park.

(c) Response to notice; required action. If the park owner receives no notice from the mobile home owners during the 45-day period or if the mobile home owners notify the park owner that they do not intend to consider purchase of the park, the park owner has no further restrictions regarding sale of the park pursuant to this section. If during the 45-day period, the park owner receives notice in writing that a majority of the mobile home owners intend to consider purchase of the park then the park owner shall do all the following:

(1) Not accept a final unconditional offer to purchase from a party other than leaseholders for ~~90~~ 120 days following the 45-day period, a total of ~~135~~ 165 days following the notice from the leaseholders.

(2) Negotiate in good faith with the group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners concerning purchase of the park.

(3) Consider any offer to purchase from a group representing a majority of the mobile home owners or from a nonprofit corporation approved by a majority of the mobile home owners.

\* \* \*

(f) Relief from additional notice requirement. ~~No additional notice pursuant to subsection (a) of this section shall be required if the sale is in compliance with either of the following~~ A notice of intent to sell issued pursuant to subsection (a) of this section shall be valid for a period of one year from the expiration of the 45-day period following the date of the notice, and a new notice shall not be required under subsection (a) if:

(1) The park owner completes a sale of the park within one year from the expiration of the 45-day period following the date of the notice and the sale price is either of the following:

(A) ~~No less than~~ more than five percent below the price for which the park was offered for sale pursuant to subsection (a) of this section.

(B) ~~Substantially higher than~~ More than five percent above the final written offer from a group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners.

(2) The park owner has not completed a sale of the park but has entered into a binding purchase and sale agreement with a group representing a

majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners ~~with a closing date later than one year from~~ within one year from the expiration of the 45-day period following the date of the notice.

\* \* \*

#### § 6245. ILLEGAL EVICTIONS

(a) No park owner may ~~wilfully~~ willfully cause, directly or indirectly, the interruption or termination of any utility service to a mobile home except for temporary interruptions for necessary repairs.

(b) No park owner may directly or indirectly deny a leaseholder access to and possession of ~~a mobile home~~ the leaseholder's leased premises, except through proper judicial process.

(c) No park owner may directly or indirectly deny a leaseholder access to and possession of the leaseholder's ~~rented or leased~~ mobile home and personal property, except through proper judicial process.

\* \* \*

#### § 6251. MOBILE HOME LOT RENT INCREASE; NOTICE; MEETING

(a) A mobile home park owner shall provide written notification on a form provided by the department to the commissioner and all the affected mobile home park leaseholders of any lot rent increase no later than 60 days before the effective date of the proposed increase. The notice shall include all the following:

(1) The amount of the proposed lot rent increase, including any amount of the increase that is attributable to a surcharge for any capital improvements of the mobile home park pursuant to subsection (b) of this section, the estimated cost, ~~which includes interest,~~ of the capital improvements, and the proposed duration of the surcharge prorated in 12-month increments sufficient to recover the estimated cost of the capital improvements.

(2) The effective date of the increase.

(3) A copy of the mobile home park leaseholder's rights pursuant to this section and sections 6252 and 6253 of this title.

(4) ~~[Deleted.]~~ The percentage of increase from the current base lot rent.

\* \* \*

#### § 6254. REGISTRATION OF MOBILE HOME PARKS; REPORT

(a) No later than September 1 each year, each park owner shall register with the department on a form provided by the department. The form shall include the following information:

\* \* \*

(8) The lot rent to be charged for each lot as of the preceding scheduled for October 1 of that year, and the effective date of that lot rent charge.

\* \* \*

\* \* \* Affordable Housing Tax Credit \* \* \*

Sec. 3. 32 V.S.A. § 5930u(g) is amended to read:

(g) In any fiscal year, the allocating agency may award up to \$400,000.00 in total first-year credit allocations to all applicants for rental housing projects; and may award up to ~~\$100,000.00~~ \$300,000.00 per year for owner-occupied unit applicants. In any fiscal year, total first-year allocations plus succeeding-year deemed allocations shall not exceed ~~\$2,500,000.00~~ \$3,500,000.00.

\* \* \* DEHCD Study and Planning \* \* \*

Sec. 4. DEHCD STUDIES; LONG-RANGE PLANNING FOR THE VIABILITY AND DISASTER RESILIENCY OF MOBILE HOME OWNERSHIP AND PARKS

(a) The department of economic, housing and community development shall, in collaboration with other organizations and interested stakeholders, develop a plan for the future viability and disaster resiliency of mobile home ownership and parks.

(b) The plan shall:

(1) With input from the agency of natural resources, identify parks vulnerable to natural hazards such as flooding and develop a strategy for improving their safety and resiliency through education, emergency planning, mitigation measures, reconfiguration, and relocation.

(2) Identify barriers to mobile home ownership including the availability of financing and mortgage insurance and recommend methods for the state to assist, including coordinating with USDA Rural Development to extend its pilot program under the section 502 direct loan and guarantee loan programs and working with public, private, and nonprofit entities to develop solutions.

(3) Address the potential loss of mobile home parks and affordability due to sale, closure, or natural disaster by recommending actions to encourage resident or nonprofit purchase and ownership and the creation of new mobile home parks or lots through technical assistance and planning guidance to municipalities and developers.

(4) Assess other housing designs as alternatives to mobile homes that are affordable when all related costs, such as siting, water and sewer, and energy use are taken into consideration.

Sec. 5. 20 V.S.A. § 2731(k) is added to read:

(k) Building codes. Pursuant to his or her authority under this section, the commissioner of public safety shall:

(1) Develop and maintain on the department website a graphic chart or grid depicting categories of construction, including new construction, major rehabilitation, change of use, and additions, and the respective building codes that apply to each category.

(2) Whenever practicable and appropriate, offer the opportunity to construction and design professionals to participate in division of fire safety staff training.

(3) Update building codes on three-year cycles, consistent with codes developed by code-writing authorities, to keep pace with technology, products, and design.

(4) Create a publicly accessible database of decisions that are decided on appeal to the commissioner.

(5) Apply the International Building Code (IBC) to new construction.

Sec. 6. 9 V.S.A. § 2461b(h) is added to read:

(h)(1) The owner of a propane storage tank shall anchor the tank or affix the tank to a structure or other fixture to ensure the safety of persons and property in the event of a flood or other natural disaster.

(2) In the event a propane storage tank becomes unsecured due to flood or other natural disaster, the owner of the tank shall be responsible for the recovery and, if applicable, appropriate disposal of the tank and its contents.

Sec. 7. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

\* \* \*

(12) To discriminate in land use decisions or in the permitting of housing because of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, disability, the presence of one or more minor children, income, or except as otherwise provided by law.

\* \* \*

Sec. 8. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

\* \* \*

\* \* \* Allocation of Rental Housing Subsidies by State Entities (VSHA) \* \* \*

Sec. 9. ADMINISTRATION OF RENTAL HOUSING SUBSIDIES;  
FINDINGS AND PURPOSE

The general assembly finds:

(1) Administration of rental housing subsidies in Vermont, including federal housing funds, is a public and essential governmental function to be focused primarily on assuring safe and decent housing for low and moderate income persons without undue regard for the generation of profit or surplus.

(2) In recent years, private entities, including nominally private entities controlled by public jurisdictions from other states, have sought contracts to administer allocations of federal rental subsidies throughout the United States.

(3) To the maximum extent permitted by applicable law, it is the purpose of Sec. 10 of this act to limit the administrative control of federal rental subsidies to state of Vermont public bodies.

Sec. 10. 24 V.S.A. § 4005(e) is added to read:

(e) Notwithstanding any provision of law, no person, domestic or foreign, shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

(1) a subcontractor of the state authority; or

(2) a state public body authorized by law to administer such allocations.

\* \* \* Expedited Removal of Mobile Home by Municipality \* \* \*

Sec. 11. 9 V.S.A. § 2608 is added to read:

§ 2608. MUNICIPAL ACTION FOR SALE OF ABANDONED MOBILE HOME

(a) In the alternative to the process for foreclosure of a tax lien on a mobile home pursuant to 32 V.S.A. chapter 133, a municipality shall have the authority to commence an action to sell at public auction an abandoned mobile home located within the municipality pursuant to this section.

(b) A municipality shall file a verified complaint in the civil division of the superior court for the county in which the municipality is located, which shall be entitled "In re: Abandoned Mobile Home of [name of owner]," and shall include the following information:

(1) The physical location and address of the mobile home.

(2) The name and last known mailing address of the owner of the mobile home.

(3) A description of the mobile home, including make, model, and serial number, if available.

(4) The names and addresses of creditors, holders of housing subsidy covenants, or others having an interest in the mobile home based on liens or notices of record in the municipality offices or the office of the secretary of state.

(5) The facts supporting the claim that the mobile home has been abandoned.

(6) The name of a person disinterested in the mobile home or of a municipality employee who will be responsible for the sale of the mobile home at a public auction.

(7) A statement of the amount of taxes, fees, and other charges due or which will become due to the municipality.

(8) If the mobile home is located on leased land, the name and address of the landowner.

(c) A municipality may request an order approving transfer of a mobile home which is unfit for human habitation to the municipality without a public sale by filing a verified complaint containing the information required in subsection (a) of this section and the facts supporting the claim that the mobile home is unfit for human habitation.

(d) When a verified complaint is filed under this section, the clerk of the civil division of the superior court shall set a hearing to be held at least 15 days but no later than 30 days after the filing of the complaint.

(e) Within five days after filing the verified complaint, the municipality shall post a copy of the verified complaint and order for hearing on the mobile home and send a copy of the verified complaint and order for hearing by certified mail, return receipt requested, to the mobile home owner's last known mailing address, to the landowner if the mobile home is located on leased land, and to all lien-holders of record.

(f) The municipality shall publish the verified complaint and order for hearing in a newspaper of general circulation in the municipality where the mobile home is located. The notice shall be published no later than five calendar days before the date of hearing.

(g) If prior to or at the hearing any lien-holder certifies to the court that the lien-holder has paid to the municipality all taxes, charges, and fees due the municipality and will commence or has commenced proceedings to enforce the lien and will continue to pay municipal taxes, charges, and fees during the proceedings under this section, the court shall, upon confirmation of the representations of the lien-holder, stay the action under this section pending completion of the lien-holder's action.

(h) At the hearing, the municipality shall prove ownership of the mobile home; abandonment of the mobile home; the amount of taxes, fees, and other charges due the municipality; and the amount of attorney fees claimed. The municipality shall also prove compliance with the notice requirements of subsections (e) and (f) of this section. Whether a mobile home is abandoned shall be a question of fact determined by the court.

(i) If the court finds that the municipality has complied with subsection (h) of this section, the court shall enter an order approving the sale of the mobile home at a public auction to be held within 15 days of the date of the order. The municipality shall send the order by first-class mail to the mobile home owner, to the landowner if the mobile home is located on leased land, and to all lien-holders of record. The order shall require all the following:

(1) That the sale shall be conducted by the person identified in the verified complaint or some other person approved by the court.

(2) That notice of the sale shall be published in a newspaper of general circulation in the municipality where the mobile home is located and sent by first-class mail to the mobile home owner, to the landowner if the mobile home is located on leased land, and to all lien-holders of record. The notice of sale shall be published two times, at least five days apart with the second publication being no later than three calendar days before the date of sale.

(3) That the terms of sale provide for conveyance of the mobile home by real estate deed or by uniform mobile home bill of sale, as appropriate under this chapter, executed on behalf of the mobile home owner pursuant to the



order of the court by the person authorized by the court, in “as is” condition, and free and clear of all liens and other encumbrances of record.

(4) A minimum bid established by the court sufficient to cover the total costs listed in subdivisions (7)(A)–(D) of this subsection. The mobile home shall be sold to the highest bidder over the minimum bid set by the court; provided, however, that if no bid meets or exceeds the minimum bid set by the court, the court shall order transfer of the mobile home to the municipality upon payment of costs due to the person who conducted the sale.

(5) The successful bidder, if other than the municipality:

(A) shall make full payment at the auction if the bid does not exceed \$2,000.00; or

(B) if the bid exceeds \$2,000.00, shall provide a nonrefundable deposit at the time of the auction of at least \$2,000.00 or 25 percent of the bid, whichever is greater, and shall make full payment within three working days after the auction.

(6) A successful bidder, if other than the municipality, shall remove the mobile home from its current location within five working days after the auction unless the municipality permits the mobile home to remain on the site or permits removal of the mobile home at a later date. If the mobile home is located on leased land, the mobile home shall be removed within five days unless the landowner grants permission to the successful bidder, including the municipality, for the mobile home to remain on the leased land.

(7) The person who conducted the public sale shall report to the court the results of the sale, the proposed distribution of the proceeds of the sale, and the bank in which any excess proceeds are deposited and shall send a copy of the report to the mobile home owner, the municipality, the landowner if the mobile home is located on leased land, and all lien-holders of record by certified mail, return receipt requested, within three working days after the sale. Anyone claiming impropriety in the conduct of the sale may file an objection with the court within seven days after the sale. The filing of an objection shall not invalidate the sale or delay transfer of ownership of the abandoned mobile home. If an objection is filed and if the court finds impropriety in the conduct of the sale, the court may order distribution of the proceeds of the sale as is fair, taking into account the impropriety. If no objection is filed with the court, on the eighth day after the sale, the proceeds shall be distributed as follows:

(A) To the person conducting the sale for costs of the sale.

(B) To the municipality for court costs, publication and mailing costs, and attorney fees incurred in connection with the action in an amount approved by the court.

(C) To the municipality for taxes, penalties, and interest owed in an amount approved by the court.

(D) To the landowner for unpaid lot rent if the mobile home is located on leased land.

(E) The balance to a bank account in the name of the mobile home municipality as trustee, for the benefit of the mobile home owner and lien-holders of record, to be distributed pursuant to further order of the court.

(j) Notwithstanding provisions of this section and 10 V.S.A. § 6249 (sale of abandoned mobile home by park owner) to the contrary, if an action is commenced by a municipality pursuant to this section and by a mobile home park owner pursuant to 10 V.S.A. § 6249 for the sale of the same abandoned mobile home within 30 days of one another, the court shall consolidate the cases and shall distribute the proceeds of a sale as follows:

(1) To the person conducting the sale for costs of the sale.

(2) To the municipality and the park owner equitably in the discretion of the court:

(A) for court costs, publication and mailing costs, and attorney fees incurred in connection with the action in an amount approved by the court;

(B) for taxes, penalties, and interest owed the municipality in an amount approved by the court; and

(C) for rent and other charges owed to the park owner in an amount approved by the court.

(3) The balance to a bank account in the name of the mobile home municipality as trustee for the benefit of the mobile home owner and lien-holders of record, to be distributed pursuant to further order of the court.

(k) If a municipality requests an order approving transfer of a mobile home to the municipality without a public sale, the court shall approve that order if it finds that the municipality has complied with subsection (h) of this section and has proved that the mobile home is unfit for human habitation. In determining whether a mobile home is unfit for human habitation, the court shall consider whether the mobile home:

(1) contains functioning appliances and plumbing fixtures;

(2) contains safe and functioning electrical fixtures and wiring;

(3) contains a safe and functioning heating system;

- (4) contains a weather-tight exterior closure;
- (5) is structurally sound;
- (6) is reasonably free of trash, debris, filth, and pests.

Sec. 12. 9 V.S.A. § 4462 is amended to read:

§ 4462. ABANDONMENT; UNCLAIMED PROPERTY

\* \* \*

(d) Any personal property remaining in the dwelling unit or leased premises after the tenant has vacated may be disposed of by the landlord without notice or liability to the tenant or owner of the personal property, provided that one of the following has occurred:

(1) The tenant provided actual notice to the landlord that the tenant has vacated the dwelling unit or, leased premises, or mobile home lot.

(2) The tenant has vacated the dwelling unit or, leased premises, or mobile home lot at the end of the rental agreement.

(3) Fifteen days have expired following service of a writ of possession pursuant to 10 V.S.A. chapter 153, 11 V.S.A. chapter 13, or 12 V.S.A. chapter 169.

Sec. 13. SALES AND USE TAX HOLIDAYS FOR MOBILE HOMES

(a) Notwithstanding the provisions of 32 V.S.A. § 233 and 24 V.S.A. § 138, no sales and use tax, local option sales tax, or property transfer tax shall be imposed or collected on sales to individuals for mobile homes purchased after April 1, 2011 to replace a mobile home that was damaged or destroyed as a result of flooding and storm damage that occurred after that date.

(b) Any resident of Vermont who purchased a mobile home after August 28, 2011 and prior to the effective date of this act, and the mobile home was purchased to replace a mobile home that was damaged or destroyed as a result of Tropical Storm Irene, shall be entitled to a reimbursement in the amount of any sales and use tax, local option sales tax, or property transfer tax paid.

(c) The department of taxes may establish standards and procedures necessary to implement this section. The department of taxes shall reimburse taxpayers that qualify under subsection (b) of this section.

Sec. 14. APPROPRIATIONS

(a) The amount of \$100,000.00 is appropriated from the general fund to the department of economic, housing and community development as follows:

(1) \$50,000.00 for a grant to the Champlain Valley Office of Economic Opportunity to increase its ability to provide start-up and ongoing technical assistance to mobile home park residents interested in cooperative ownership of their parks.

(2) \$50,000.00 to increase department staff for long-range planning for the preservation and replacement of mobile home parks noticed for sale or closure or damaged by flooding.

(b) The amount of \$50,000.00 is appropriated from the general fund to the Vermont housing and conservation board's project feasibility fund to conduct financial feasibility and infrastructure needs analyses of mobile home parks noticed for sale or closure or damaged by flooding.

(c) The amount of \$500,000.00 is appropriated from the settlement funds due the state under the joint state-federal settlement of claims with the five largest mortgage servicers arising from mortgage foreclosure practices to the department of economic, housing and community development to develop and implement with the Champlain Housing Trust, the Central Vermont Community Land Trust, Gilman Housing Trust, NeighborWorks of Western Vermont, and Windham & Windsor Housing Trust, and other stakeholders a program to help finance the purchase, repair, refinance, and replacement of up to 100 individual mobile homes. The department shall coordinate with the Champlain Housing Trust and other stakeholders to secure at minimum an additional \$1,800,000.00 in grant capital to help fund the program from a variety of public and private sources, including equity from the sale of Vermont affordable housing tax credits, the Vermont community development block grant program, the Vermont Community Foundation, and the Vermont disaster relief fund.

(d)(1) The amount of \$2,500,000.00 is appropriated to the department of economic, housing and community development to fund the following activities related to mobile home parks that will be maintained as affordable housing for low income Vermonters on a perpetual basis:

(A) the purchase of mobile home parks, including purchase by resident-owned cooperatives;

(B) infrastructure improvements; and

(C) disaster recovery, including relocation or replacement of mobile home parks damaged by flooding.

(2) The amount appropriated pursuant to this subsection shall come from the following sources:

(A) \$500,000.00 from the settlement funds due the state under the joint state–federal settlement of claims with the five largest mortgage servicers arising from mortgage foreclosure practices; and

(B) \$2,000,000.00 in state capital appropriations.

#### Sec. 15. AUTHORITY TO ISSUE LETTER OF CONDEMNATION

(a) Because repairs to homes damaged in natural disasters must be done in accordance with local codes and ordinances, the Federal Emergency Management Agency (FEMA) recognizes that there may be reasons for a local authority to deem a home condemned.

(b) According to FEMA policy, the letter must come from the jurisdictional authority and the condemnation notice of demolition must be disaster-related. FEMA then reviews each notice on a case-by-case basis for approval of replacement assistance up to the maximum award.

(c) Accordingly, for purposes of complying with FEMA policies and procedures, any state or local person or entity empowered to condemn property by statute, rule, regulation, ordinance, or similar legal authority shall qualify as a jurisdictional authority with all the necessary rights and powers to declare property to be condemned, provide notice of condemnation and demolition to FEMA or any other entity, and take such other steps as are necessary to ensure Vermonters are eligible for receiving the maximum amount of state and federal recovery assistance otherwise available.

#### Sec. 16. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 15 (authority to issue letter of condemnation) of this act shall apply retroactively to January 1, 2011.

and that when so amended the bill ought to pass, and that after passage the title of the bill be amended to read: “An act relating to supporting mobile home ownership, strengthening mobile home parks, and preserving affordable housing”

(Committee vote: 4-0-1)

**Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.**

The Committee recommends that the bill be amended by striking out Secs. 3, 6 and 13 in their entirety and by renumbering the remaining sections to be numerically correct.

(Committee vote: 7-0-0)

**Reported favorably with recommendation of amendment by Senator Illuzzi for the Committee on Appropriations.**

The Committee recommends that the bill be amended by striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. PRIORITIES FOR MOBILE HOME INVESTMENTS

In the event that sources of funding are available for investments in securing mobile home infrastructure, expanding affordable ownership opportunities, and other activities consistent with the goals and purposes of this act, it is the intent of the general assembly to invest in the following priorities:

(1) Investment in the department of economic, housing and community development:

(A) for one or more grants to the Champlain Valley Office of Economic Opportunity to increase its ability to provide start-up and ongoing technical assistance to mobile home park residents interested in cooperative ownership of their parks.

(B) to increase department staff for long-range planning for the preservation and replacement of mobile home parks noticed for sale or closure or damaged by flooding.

(2) Investment in the Vermont housing and conservation board's project feasibility fund to conduct financial feasibility and infrastructure needs analyses of mobile home parks noticed for sale or closure or damaged by flooding.

(3) Investment in the department of economic, housing and community development to develop and implement with the Champlain Housing Trust, the Central Vermont Community Land Trust, Gilman Housing Trust, NeighborWorks of Western Vermont, Windham & Windsor Housing Trust, and other stakeholders a program to help finance the purchase, repair, refinance, and replacement of up to 100 individual mobile homes. The general assembly further recommends that the department coordinate with the Champlain Housing Trust and other stakeholders to secure additional grant capital to help fund the program from a variety of public and private sources.

(4) Investment in the department of economic, housing and community development to fund the following activities related to mobile home parks that will be maintained as affordable housing for low-income Vermonters on a perpetual basis:

(A) the purchase of mobile home parks, including purchase by resident-owned cooperatives;

(B) infrastructure improvements; and

(C) disaster recovery, including relocation or replacement of mobile home parks damaged by flooding.

(Committee vote: 5-0-2)

**S. 142.**

An act relating to pet merchants.

**Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 3681 is amended to read:

§ 3681. PERMIT

(a) ~~The owner or keeper of two or more domestic pets or wolf hybrids four months of age or older kept for sale or for breeding purposes, except for his or her own use, A person who sells, exchanges, or donates or offers to sell, exchange, or donate for monetary consideration three or more litters of domestic pets or wolf-hybrids in a calendar year shall apply to the municipal clerk of the town or city in which the domestic pets or wolf-hybrids are kept for a kennel permit to be issued on forms prescribed by the commissioner and pay the clerk a fee of \$10.00 \$25.00 for the same. The provisions of subchapters 1, 2, and 4 of this chapter not inconsistent with this subchapter, shall apply to the permit which shall be in addition to other permits required. A kennel permit shall expire on March 31 next after issuance, and shall be displayed prominently on the premises on which the domestic pets or wolf-hybrids are kept. If the permit fee is not paid by April 1, the owner or keeper may thereafter procure a permit for that license year by paying a fee of fifty 50 percent in excess of that otherwise required. Municipal clerks shall maintain a record of the type of animals being kept by the permit holder.~~

(b) A person possessing a kennel permit issued under this section must include the permit number in any form of advertising, including Internet advertising, a brochure, or a sign that announces the availability of an animal for sale or exchange. The person's name and kennel permit number must be provided to the person purchasing or otherwise receiving an animal.

(c) The legislative body of a municipality may assess a penalty against any person who violates subsection (b) of this section.

Sec. 2. 20 V.S.A. § 3682 is amended to read:

§ 3682. INSPECTION OF PREMISES

These premises may be inspected at any ~~reasonable~~ time between 9:00 a.m. and 5:00 p.m. in the presence of or with the consent of the owner by a law enforcement officer, a representative of the agency of agriculture, food and markets, or an officer or agent of ~~an~~ a Vermont incorporated humane society

and a veterinarian licensed to practice in Vermont, designated by such officer, agent or agency.

(Committee vote: 4-0-1)

**Reported favorably by Senator Cummings for the Committee on Finance.**

(Committee vote: 7-0-0)

### **S. 143.**

An act relating to disclosing building energy performance and promoting thermal energy efficiency.

**Reported favorably with recommendation of amendment by Senator MacDonald for the Committee on Natural Resources and Energy.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. chapter 2 is added to read:

#### CHAPTER 2. BUILDING ENERGY PERFORMANCE

##### § 51. PURPOSE

This chapter requires disclosure of the energy efficiency of residential and commercial buildings in order to make data on building energy performance visible in the marketplace for real property and to inform the choices of those who might purchase the property.

##### § 52. DEFINITIONS

As used in this chapter:

(1) “Asset rating” means a rating of a building’s energy use through modeling under standardized weather and occupancy conditions.

(2) “Btu” means a British thermal unit.

(3) “Building” means any enclosed structure created for use as a residence or as a place of business or of any other activity, whether commercial or noncommercial in character.

(4) “Buyer” means a person to whom a building, real property containing a building, or a unit is or is to be sold or who makes an offer to purchase the building, real property, or unit, and the person’s agent, if any.

(5) “Commercial building” means any building that is not a residential building. The term excludes equipment and physical systems that are exempt from the commercial building energy standards under 21 V.S.A. § 268(a)(2) (industrial and manufacturing processes).



(6) “Commercial unit” means that part of a commercial building which is occupied by or intended for occupation by an individual owner or tenant.

(7) “Conditioned space” means space within a building that is heated or cooled or both by one or more physical systems.

(8) “Department” means the department of public service under section 1 of this title.

(9) “Large residential building” means a residential building that contains five or more residential units.

(10) “Low energy use building” means a commercial building or residential building whose peak energy usage design rate for all purposes is less than 3.4 Btus per hour per square foot or less than one watt per square foot of floor area.

(11) “Operational rating” means a rating of a building’s energy use by measuring actual energy consumption on an annual basis, taking into consideration all physical systems and their operation.

(12) “Residential building” means a building in which the space meets or is intended to meet the living needs of one or more individuals and excludes a building that mixes residential with commercial or other nonresidential uses.

(13) “Residential unit” means a separately enclosed space within a building that meets or is intended to meet the living needs of one or more individuals.

(14) “Sale” means a transfer of all or any part of the ownership of a building, real property that contains a building, or a unit.

(15) “Seller” means a person whose building, real property, or unit is or is to be transferred by sale or who offers to make the transfer, and the person’s agent, if any.

(16) “Small residential building” means a residential building that is a one-family dwelling or which contains up to and including four residential units.

(17) “Unit,” when used as a stand-alone term, includes commercial units and residential units, except when the context clearly refers to a unit of measurement.

#### § 53. SCOPE; APPLICABILITY

This chapter applies to all new and existing buildings and units and real property containing such buildings or units, but does not apply to any of the following:

(1) A transfer or change of title to real property or the right to possess real property by reason of inheritance, gift, marriage, or divorce.

(2) An involuntary transfer of title resulting from default on an obligation secured by real property.

(3) A transfer of title from a financial institution or credit union subject to supervision under 8 V.S.A. part 5 or 6 if the property whose title is being transferred was security for a mortgage or other loan issued by the financial institution or credit union and the financial institution or credit union obtained title to the property through a foreclosure or bankruptcy proceeding or a deed in lieu of foreclosure.

(4) A low energy use building.

(5) A building that does not contain conditioned space.

(6) The sale of real property that does not contain a building.

(7) A building that is used no more than 30 consecutive days annually between December 15 and April 15.

(8) A building that is under construction and is not used, occupied, or habitable.

(9) A farm structure as defined in 24 V.S.A. § 4413(d)(1).

#### § 54. SELLER'S ENERGY DISCLOSURE

(a) Duty of seller. At the request of a prospective buyer of a building, property, or unit that is within the scope of section 53 of this title, a seller shall provide a prospective buyer with an energy disclosure in accordance with this section. A seller may provide such a disclosure to a prospective buyer without request from the buyer. On disclosure to a prospective buyer, the seller shall provide a copy of the disclosure to the statewide database established under section 55 of this title. A property owner may provide an energy disclosure to the statewide database at any time. However, the seller or property owner need not provide to the statewide database the attachment containing itemized data described in subdivision (c)(4)(F) of this section.

(b) Energy disclosure; creation. The seller's energy disclosure shall be created using the applicable tool developed or selected by the department for the seller's energy disclosure pursuant to section 56 (department; tool development; process) of this title. A seller's disclosure using this tool shall be created not more than two years prior to its provision to a prospective buyer unless within that two-year period there has been an addition, alteration, renovation, or repair to the building to which the building energy standards under 21 V.S.A. § 266 (residential building energy standards) or 268 (commercial building energy standards) would apply, in which case the

disclosure shall be created no earlier than the date on which the addition, alteration, renovation, or repair was completed.

(c) Energy disclosure tool. The department shall ensure that a seller's energy disclosure tool developed or selected for use under this section meets each of the following:

(1) The tool shall be readily and publicly available at no charge to the end user.

(2) The tool shall be available on the Internet and shall be capable of being completed and saved by a person using a web browser.

(3) For a small residential building, the applicable tool shall be based on an asset rating methodology. For other kinds of buildings, the applicable tool may be based on an asset rating or operational rating methodology. For residential units, different tools may be developed or selected according to building type (e.g., townhouse or flat style). In developing or selecting tools applicable to residential units, the department's goal shall be to allow, as much as possible, prospective buyers of such units to compare the units' energy performance regardless of whether the units are in a small residential or large residential building.

(4) A tool developed or selected by the department for a small residential building shall result in a rating that can be presented as a single number to allow comparison with other buildings or units rated with the same tool and shall have the following features:

(A) The disclosure shall present the rating as a single number on a visual scale.

(B) The disclosure shall compare the rating to other buildings or units of the same type as the building or unit being rated (e.g., an average building of the same type in Vermont or a building that meets the energy standards under Title 21 applicable to the type of building being rated).

(C) The disclosure shall produce an estimate, in Btus, of the site energy consumption of the building or unit based on standardized weather and occupancy conditions.

(D) The disclosure shall state the square footage of the building or unit and the energy consumed (in Btus) per square foot.

(E) The disclosure shall state an estimated annual energy cost.

(F) The disclosure shall attach an itemization of the data supplied by the user to reach the rating that shall be provided to the buyer.

(G) The disclosure shall provide notice of the seller's duty to provide a copy to the statewide database under subdivision (a)(3) of this section and the

seller's option not to provide, to the database, a copy of the itemization described in subdivision (F) of this subdivision (4).

(H) The disclosure shall include a statement that describes its underlying assumptions and the potential for actual performance or costs to differ from its results.

(5) For a building, property, or unit within the scope of this chapter that is not a small residential building, a tool developed or selected by the department shall meet the requirements of subdivision (4) of this subsection to the extent feasible.

(6) The rating generated by the tool shall be either compatible with the Home Energy Rating System (HERS) or the tool shall provide a means for comparing and reconciling the rating it generates with a HERS rating.

(7) The tool shall predict with reasonable accuracy the energy performance of the building or unit assuming an average occupant, and its results shall be repeatable and predictable.

(8) If the selected tool is one created for national use, the department shall ensure that it is appropriately adapted for use in Vermont.

#### § 55. STATEWIDE DATABASE

(a) The director of property valuation and review, in consultation with the commissioner of public service, shall develop and maintain a statewide database of seller's energy disclosures issued pursuant to section 54 of this title.

(b) The database shall be publicly available.

#### § 56. DEPARTMENT; TOOL DEVELOPMENT; PROCESS

(a) The department shall select or develop each tool required under section 54 of this title, after complying with each of the following:

(1) The department shall provide for broad public notice of the proposed tool, including notice on its web page and notice to mortgage lenders, persons licensed to engage in the business of selling or appraising real property in Vermont and each association of such persons, home inspectors, the Vermont Bar Association, the Vermont Homebuilders and Remodelers Association, construction contractors, the Vermont Fuel Dealers Association, each entity appointed to deliver energy efficiency under subdivision 209(d)(2) of this title, and energy efficiency experts and businesses. Notice also shall be given to the advisory committees described in 21 V.S.A. §§ 266(c) (residential building energy standards) and 268(c) (commercial building energy standards).

(2) The department shall provide a reasonable opportunity for the submission of written comments and to request a public hearing on the

proposed tool. The department shall hold a public hearing on the proposed tool if so requested by 25 or more persons, a governmental subdivision or agency, or an association having 25 or more members.

(3) Following the actions described in subdivisions (1) and (2) of this subsection, the department shall adopt the tool, as it may be revised based on the comment and hearing process, for effect 90 days after the date of adoption. Immediately on adoption, the department shall cause the adopted tool to be posted on a website and shall provide notice of the adopted tool to each person who submitted comments on the proposed tool, to each person licensed to sell or appraise real property in Vermont and each association of such persons, to the Vermont Bar Association, the Vermont Homebuilders and Remodelers Association, the Vermont Fuel Dealers Association, and to each entity appointed to deliver energy efficiency under subdivision 209(d)(2) of this title.

(b) Using the procedures described in subsection (a) of this section, the department may from time to time revise or replace an adopted tool.

(c) The department shall be entitled to the assistance of the office of professional regulation created under 3 V.S.A. § 122 for the purpose of providing notice under this section to persons licensed to sell or appraise real property in Vermont.

#### § 57. COMMON LAW UNAFFECTED

Nothing in this chapter reduces, expands, or otherwise alters the rights, remedies, and obligations of a seller or buyer at common law as they existed prior to enactment of this chapter. A failure to disclose or inaccurate or false disclosure under this chapter shall not be used to satisfy any element of a cause of action at common law.

Sec. 2. 30 V.S.A. § 209(d)(8) is amended to read:

(8) ~~Effective January 1, 2010, such net~~ Net revenues above costs from the sale of carbon credits under the cap and trade program as provided for in section 255 of this title shall be deposited into the electric efficiency fund established by this section. ~~Such revenues~~ Any such net revenues ~~not transferred to the state PACE reserve fund under 24 V.S.A. § 3270(c)~~ shall be used as follows:

(A) Up to \$100,000.00 annually shall be available to the department of public service solely for the purpose of selection, development, and maintenance of energy disclosure tools under section 54 of this title.

(B) The remainder of these revenues shall be used by the entity appointed under subdivision (2) of this subsection to support delivery of the services described in subdivision (7) of this subsection.

Sec. 3. 32 V.S.A. § 3411 is amended to read:

§ 3411. POWERS OF THE PROPERTY VALUATION AND REVIEW DIVISION

The property valuation and review division shall through its director:

(1) employ such staff as is necessary, subject to the approval of the commissioner of the department of taxes;

(2) cooperate fully with the commissioner in any matter in which he or she requires assistance in connection with his or her duties, including the valuation of property for any tax administered and collected by the commissioner;

(3) adopt rules under 3 V.S.A. chapter 25 of Title 3 to provide for the uniform administration of the property tax;

(4) maintain any information obtained by the director from any local official subject to the same rules as to public access and confidentiality as apply to such information in the possession of a local official, as contained in section 4009 of this title;

(5) provide technical assistance and instruction to the listers in a uniform appraisal system and provide other related assistance within the limits of available resources;

(6) prepare and provide to towns at a reasonable fee form books, other required forms and copies of relevant statutes in booklet form;

(7) to the extent of available resources to prepare and provide tax maps for all municipalities not having the same;

(8) from time to time to develop and recommend to the general assembly improved methods for standardizing property assessment procedures and to administer the current use program in accordance with chapter 124 of this title;

(9) annually publish the report described in section 3412 of this title;

(10) assist municipalities in administration of property taxes, including the appraisal of classes of property difficult to appraise, such as industrial and utility properties; ~~and~~

(11) appraise property required by law to be appraised by the director, including but not limited to railroad property under 32 V.S.A. chapter 21; and

(12) develop and maintain a statewide database of sellers' energy disclosures in accordance with 30 V.S.A. § 55.

Sec. 4. THERMAL ENERGY EFFICIENCY; TASK FORCE

(a) Findings. The general assembly finds that:

(1) In 2008, the state of Vermont enacted numeric building efficiency goals that are codified at 10 V.S.A. § 581. These goals include improving the energy fitness of large percentages of the state's housing stock (e.g., 80,000 homes by 2020); significant reductions in annual fuel needs and fuel bills; substantial reductions in fossil fuel consumption across all buildings; significant monetary savings on the fuel bills of Vermont families and businesses; and increases in weatherization services to low income Vermonters.

(2) In a 2011 update to its report, "Affordable Heat: Whole-Building Efficiency Services for Vermont Families and Businesses," the Regulatory Assistance Project determined that in 2010, Vermonters paid over \$600 million to import fossil fuels for use in homes, businesses, and other buildings. Yet, despite the economic and environmental benefits to be gained, the report concludes that, without further action, Vermont will likely fall significantly short of its building efficiency goal for 2020 by as many as 31,000 homes.

(3) In Sec. 7.2.1.1 of the Comprehensive Energy Plan (CEP) (Dec. 2011), the department of public service (the department) states that it will "create a task force to develop a detailed plan for facilitating a simple, integrated, and comprehensive statewide whole-building approach to thermal energy efficiency that will put us on the path toward meeting the building efficiency goals set out in statute. The task force should complete analysis and recommendations by December 2012 . . ."

(4) The department has created and convened the thermal efficiency task force described in subdivision (3) of this subsection and has included in the task force energy efficiency experts and representatives of a wide array of relevant entities such as the state's regional community action and weatherization organizations, the City of Burlington Electric Department, the Conservation Law Foundation, Efficiency Vermont, the High Meadows Fund, Neighborworks of Western Vermont, the office of economic opportunity, the Regulatory Assistance Project, the school energy management program of the Vermont Superintendents Association, the Vermont Energy Climate Action Network, the Vermont Fuel Dealers Association, Vermont Gas Systems, the Vermont Homebuilders and Remodelers Association, the Vermont Housing and Conservation Board, and the Vermont Public Interest Research Group. The department also has agreed to invite representatives of Vermont's financial institutions and credit unions to participate in the task force.

(b) Analysis, recommendations, and report. In consultation with the thermal efficiency task force that the department has convened, the commissioner of public service shall, by January 15, 2013, complete an analysis, develop recommendations, and submit a report to the general

assembly on improving the delivery, funding, and financing of thermal energy efficiency in Vermont, using a whole buildings approach, in a manner that will enable the state to meet the building efficiency goals set out in 10 V.S.A. § 581.

(1) The analysis, recommendations, and report shall address at least each of the following:

(A) An assessment of current thermal efficiency programs and services, including identification of all current market actors delivering these services and existing programs that provide incentives or technical assistance.

(B) Analysis of the relationship between electric and thermal energy efficiency measures and services.

(C) Evaluation of and recommendations on the potential for integrating delivery of thermal energy efficiency with encouraging the use of heating sources that use renewable fuels.

(D) Assessment of barriers and disincentives to consumer adoption of thermal energy efficiency measures and recommendations on how to improve the delivery and coordination of thermal energy efficiency programs from the customer perspective, including consideration of a “one-stop” approach.

(E) Evaluation of the current level of integration and coordination in Vermont between administration of the Low Income Home Energy Assistance Program (LIHEAP), 42 U.S.C. § 8621 et seq. and the home weatherization assistance program under 33 V.S.A. § 2502 and recommendations, if any, for improving the delivery of whole buildings energy efficiency services to recipients of LIHEAP funds.

(F) Identification of the amount of funding needed to achieve the state’s building energy goals at 10 V.S.A. § 581 and recommendation of funding sources and financing mechanisms that will achieve the necessary funding.

(i) Funding sources to be evaluated shall include at least the following: use of the fuel gross receipts tax under 33 V.S.A. § 2501; use of the electric energy efficiency charge under 30 V.S.A. § 209(d)(3); and establishing a tax or charge on the creation of waste, air emissions, pollutant discharges, or other by-products by energy generated in the state.

(ii) Financing sources to be evaluated shall include at least the following: use of on-the-bill tariff financing (OTF) on electric or natural gas bills or both; use of property-assessed clean energy districts under 24 V.S.A. chapter 87, subchapter 2; mechanisms to encourage the development and deployment in Vermont of energy service companies whose services include whole buildings energy efficiency; encouraging or requiring lenders to



promote the energy efficiency mortgage developed by the Federal Housing Administration or similar products; and mechanisms to encourage increased incorporation of building energy performance into conventional lending.

(G) Evaluation of and recommendations on the role of the energy efficiency entities appointed under 30 V.S.A. § 209(d)(2), Efficiency Vermont and BED, in the delivery of whole buildings thermal energy efficiency services, including review of measures to be implemented by other persons and associated energy savings claims.

(H) In consultation with the commissioner of building and general services and Efficiency Vermont, identification, evaluation, and recommendation of methods to increase the energy efficiency of state buildings, including the treatment of energy efficiency as an investment.

(I) Recommendations on how to measure and track progress toward compliance with the building efficiency goals.

(2) In meeting the requirements of this section, the department may use and build on analysis and evaluations completed in connection with the CEP or contained in other relevant reports issued since enactment of the building efficiency goals in 2008.

(3) Between the effective date of this section and the date for submission of the report, the commissioner shall meet at least twice at mutually agreeable intervals with the chairs of the house and senate committees on natural resources and energy to report on the progress of the task force and the analysis, recommendations, and report to be completed under this section.

#### Sec. 5. ON-BILL FINANCING; REPORT

No later than 30 days after passage of this section, the public service board (the board) by order shall require that, by January 15, 2013, any electric distribution utility that offers its customers, or some of them, on-bill financing of energy efficiency shall submit a report to the board on the use of such on-bill financing, customer response to such financing, and benefits discerned or problems encountered in using and implementing on-bill energy efficiency financing. Immediately on receipt, the board shall submit a copy of the report to the general assembly electronically in accordance with the guidelines established by the office of legislative council for electronic submission of reports by state agencies.

Sec. 6. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of ~~0.5~~ 1 percent on the retail sale of the following types of fuel by sellers receiving more than \$10,000.00 annually for the sale of such fuels:

(1) heating oil, kerosene, and other dyed diesel fuel delivered to a residence or business;

(2) propane;

(3) natural gas;

(4) electricity;

(5) coal.

(b) The tax shall be levied upon and collected quarterly from the seller. Fuel sellers may include the following message on their bills to customers:

“The amount of this bill includes a ~~0.5%~~ 1% gross receipts tax, ~~enacted in 1990~~, for support of Vermont’s low income home weatherization program.”

\* \* \*

#### Sec. 7. EFFECTIVE DATES; IMPLEMENTATION

(a) This section and Secs. 2 (revenues from carbon credits), 4 (thermal energy efficiency; task force) and 5 (on-bill financing; report) of this act shall take effect on passage.

(b) Secs. 1 (building energy performance) and 3 (property valuation and review) of this act shall take effect on January 1, 2014, except that on passage of this act, the department of public service shall have authority to select and adopt energy disclosure tools in accordance with the provisions of Sec. 1, and the director of property valuation and review shall have authority to develop a statewide database in accordance with Sec. 1, 30 V.S.A. § 55, and Sec. 3.

(c) On or before October 1, 2013:

(1) The department of public service shall complete adoption of the energy disclosure tools required by Sec. 1 of this act for implementation commencing on January 1, 2014.

(2) The director of property valuation and review shall complete development of the statewide database required by Secs. 1 and 3 of this act for implementation commencing on January 1, 2014.

(d) Sec. 6 of this act (fuel gross receipts tax) shall take effect on July 1, 2012. The quarter ending September 30, 2012 shall be the first quarter for which the tax imposed by 33 V.S.A. § 2503, as amended by Sec. 5 of this act, shall be due.

(Committee vote: 3-2-0)

**Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.**

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

First: By striking out Secs. 1 (building energy performance), 2 (revenues from carbon credits), 3 (property valuation and review), 5 (on-bill financing; report), 6 (fuel gross receipts tax) and 7 (effective dates; implementation) in their entirety

Second: By renumbering Sec. 4 (thermal energy efficiency; task force) to be Sec. 1

Third: By adding a new section to be numbered Sec. 2 to read:

Sec. 2. 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 a task force on thermal energy efficiency”

(Committee vote: 6-1-0)

**Reported favorably by Senator Starr for the Committee on Appropriations.**

(Committee vote: 5-0-2)

**S. 169.**

An act relating to workers’ compensation liens.

**Reported favorably with recommendation of amendment by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds:

(1) Several recent cases involving the search and rescue of persons lost in Vermont’s outdoor recreation areas, including the tragic death of Levi Duclos on January 9, 2012 as he was hiking on the Emily Proctor Trail in Ripton, have raised questions concerning whether supervision of backcountry search and rescue operations should be maintained by the department of public safety or shared with or transferred to another governmental entity and whether

regional protocols should be put into place to allow for a local or regional response utilizing a combination of qualified professional and qualified volunteer searchers and rescuers.

(2) Under current law and practice, the Vermont State Police division of the department of public safety has primary responsibility for finding lost hikers and other missing people in areas of the state which do not have municipal police departments and has the authority to call out qualified professional and qualified volunteer services. This duty was assigned when the Vermont State Police were first created in 1946 and has not changed since that time. According to Howard Paul, a public information officer and member of the board of directors of the National Association for Search and Rescue, Vermont is one of only five states that require their state police to find and rescue people who are lost or missing outdoors.

(3) In other states in which a significant amount of outdoor recreational activity occurs, such as New Hampshire and Maine, state fish and game agencies are in charge of finding lost outdoor recreationalists. Most eastern states turn to park rangers and fish and game wardens for search and rescue.

(4) Many states collaborate with nonprofit organizations to aid in search and rescue. For example, the Maine Warden Service is in charge of search and rescue throughout that state, and it relies on the Maine Association for Search and Rescue, which is composed of approximately 15 approved member organizations.

(5) Vermont has an extensive number of first responders and emergency service personnel with specific training and experience conducting outdoor search and rescue operations. The Lincoln Fire Department, for example, has significant search and rescue experience, well-established strategies for conducting such operations, and the ability to have a team on the ground in sometimes 30 minutes or less on nights and weekends. Despite these resources, only four civilian organizations are approved by the department of public safety to provide search and rescue assistance in Vermont.

(6) In light of Vermont's minority status in charging the state police with responsibility for search and rescue of lost hikers and outdoor recreationalists and in light of the department's recent challenges in fulfilling this responsibility, it is an appropriate time to consider whether some other state entity, working with Vermont's extensive volunteer community, should assume responsibility for outdoor search and rescue operations.

## Sec. 2. BACKCOUNTRY SEARCH AND RESCUE STUDY COMMITTEE

(a) Creation of committee. There is created a backcountry search and rescue study committee to determine whether the department of public safety or a different state agency should have lead or coauthority for supervising

search and rescue operations for missing persons in Vermont's backcountry and outdoor recreational areas and to recommend an appropriate organizational structure to manage Vermont's various search and rescue resources. As used in the section, "backcountry search and rescue" means the search for and provision of aid to people who are lost or stranded in the outdoors on Vermont's land or inland waterways.

(b) Membership. The backcountry search and rescue study committee shall be composed of six members. The members of the committee shall be as follows:

(1) Three members of the house appointed by the speaker.

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

(c) For purposes of its study, the committee shall consult with and seek testimony from interested parties, including the following individuals and entities or their designees:

(1) The commissioner of public safety.

(2) The commissioner of fish and wildlife.

(3) The Vermont League of Cities and Towns.

(4) Stowe Mountain Rescue.

(5) Colchester Technical Rescue.

(6) A certified first responder with search and rescue experience.

(7) The Professional Firefighters of Vermont.

(8) A member of a volunteer fire department with search and rescue experience designated by the president of the Vermont State Firefighters Association.

(9) A sheriff designated by the department of sheriffs and state's attorneys.

(d) Powers and duties. The committee shall study whether the department of public safety or a different state agency should be responsible for supervising search and rescue operations for missing persons in Vermont's backcountry and outdoor recreational areas. The committee's study shall include:

(1) reviewing the existing method and responsibility for conducting backcountry search and rescue operations in Vermont and identifying the advantages and disadvantages of the current system;

(2) considering models in other states for supervision of backcountry search and rescue operations, including the New Hampshire approach of providing authority to the New Hampshire fish and game department;

(3) evaluating whether backcountry search and rescue operations would be conducted in a more timely and efficient manner if the authority for conducting such operations were held by one or more state or nongovernmental entities other than the department of public safety or whether there should be a shared or regional approach depending on the location of the search;

(4) considering and evaluating different organizational structures to determine how to most effectively manage Vermont's backcountry search and rescue processes and resources;

(5) considering whether minimum qualifications should be set for participation in backcountry search and rescue operations and whether backcountry search and rescue responders who are not state employees should be provided with insurance coverage;

(6) considering the feasibility of establishing an online database of missing persons that would provide automatic notice to first responders;

(7) developing methods of financing search and rescue operations, including consideration of methods used in other states such as:

(A) establishing an outdoor recreation search and rescue card available for purchase by users of outdoor recreation resources on a voluntary basis to help reimburse the expenses of search and rescue missions;

(B) imposing fees on recreational and outdoor licenses and permits; and

(C) permitting recovery of expenses from any person whose negligent conduct required a search and rescue response and, if so, who should bring such an action and who should be reimbursed; and

(8) proposing any statutory changes that the committee identifies as necessary to improve the conduct and supervision of backcountry search and rescue activities in Vermont.

(e) Report. The committee shall report its findings and recommendations, together with draft legislation if any legislative action is recommended, to the general assembly on or before January 15, 2013.

(f) Reimbursement. Members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set forth in 32 V.S.A. § 1010.

(g) The legislative council shall provide administrative and drafting support to the committee.

After passage, the title of the bill is to be amended to read:

An act relating to a study of search and rescue operations.

(Committee vote: 5-0-0)

**Reported favorably with recommendation of amendment by Senator Illuzzi for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 2, in subsection (b) (Membership), in subdivisions (1) and (2), by striking out “Three” where it appears and inserting in lieu thereof the following: Two

Second: In Sec. 2, by striking out subsection (f) (Reimbursement) in its entirety and by relettering subsection (g) to be subsection (f)

(Committee vote: 5-0-2)

**S. 180.**

An act relating to the universal service fund and establishment of a high-cost program.

**Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND PURPOSE

(a) The general assembly finds:

(1) Incumbent local exchange carriers (ILECs) are obligated to provide broad-based access to telephone services, even in areas that are high cost, sparsely populated, or filled with subscribers of limited means.

(2) Traditionally, ILECs were rewarded with an exclusive franchise in return for carrying out their regulatory responsibilities in unprofitable areas.

(3) However, with increased competition in the telecommunications field, particularly in profitable areas, ILECs have less of an opportunity to cover the costs of serving unprofitable areas.

(4) Vermont has a state universal service fund which is currently used to support the lifeline and enhanced 911 programs. Funds are generated by an

end-user surcharge on all retail telecommunications service provided to a Vermont address.

(b) It is the purpose of this act to establish a new regulatory model under which ILECs can continue their costly responsibilities over wide areas and still have an opportunity to cover their costs, even in the presence of competitors.

\* \* \* Universal Service Fund Studies \* \* \*

Sec. 2. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST BASIC TELECOMMUNICATIONS SERVICE

(a) The general assembly intends that the universal service charge be used in the future as a means of keeping basic telecommunications service affordable in all parts of this state, thereby maintaining universal service. ~~In the future, and after this section has been amended by further act of legislation, payments may be made to reduce the cost of basic telecommunications service in areas where that cost would otherwise jeopardize universal service or uniform economic development.~~

(b) The commissioner of public service, in conjunction with the public service board, shall conduct a study of the costs and other factors affecting the delivery of local exchange service by the incumbent local exchange carriers (the providers of last resort). The study shall be conducted either as an independent inquiry or as part of a proceeding or docket affecting other matters include an informal workshop process to be conducted by the board. Such process shall be noticed to the general public and structured to allow written and verbal comments by the general public, service providers, public officials, and others as determined by the board. The study shall:

(1) After considering information on how various factors affect the costs of providing telecommunications service in Vermont and elsewhere, estimate the current costs and estimate, on a forward-looking basis, the differential costs of providing local exchange service to various customer groups throughout Vermont.

(2) Estimate the relationship between basic telecommunications service charges and universal service, and the threshold level beyond which universal residential service is likely to be harmed.

(3) Estimate the relationship between basic telecommunications service charges and opportunities for uniform economic development throughout the state, and the threshold prices beyond which such opportunities may be adversely affected.

(4) Estimate the potential effects of local exchange competition on uniform and affordable basic telecommunications service charges in all parts of the state.



(5) Examine policy options by which the cost to customers may be managed so as not to jeopardize universal service and the uniform economic development opportunities, including at least the following:

(A) establishing a maximum price for basic telecommunications service, beyond which customers would have access, without regard to income, to credits or vouchers negotiable for local exchange service from a local exchange provider or competitive access provider;

(B) broadening eligibility for the lifeline program; and

(C) establishing a mechanism to adjust the level of support for higher cost customers over time to reflect legal rights, recover historic costs, and reflect the advantages of improved technology and increased efficiency.

(6) Examine the actions, if any, of the Federal Communications Commission (FCC) in revising its universal service fund, and the need, if any, for additional action in Vermont. In particular, the study shall examine the impact on Vermont services caused by the FCC's report and order released November 18, 2011, which, among other things, expands the federal universal service fund to include broadband deployment in unserved areas. Further, the study shall consider the potential impact of various legal challenges to the FCC action on the federal universal service fund.

(7) Propose mechanisms to support universal service and rural economic development while securing the benefits of telecommunications competition for Vermont households and businesses.

(8) Include an audit of the universal service fund to examine, among other things, the contributions made to the fund in terms of the categories of telecommunications service providers covered as well as the specific services charged. In addition, the audit shall assess the disbursements made from the fund.

(9) Consider any other relevant issues that may arise during the course of the study.

(c) The results of the study, together with any plan for amending and distributing funds under this section, shall be submitted to the ~~general assembly~~ house committee on commerce and economic development and the senate committee on finance on or before ~~January 15, 1996~~ December 1, 2012.

(d) The commissioner of public service may contract with a consultant to conduct the study required by this section. Costs incurred in conducting the study shall be reimbursed from the state universal service fund up to \$75,000.00.

(e) To the extent this study may require disclosure of confidential information by a telecommunications service provider, such confidential

information shall be disclosed to a third party pursuant to a protective agreement. In no event shall the third party be a person or persons employed by a business competitor or whose primary duties engage them in business competition with a telecommunications service provider submitting the confidential information. The third party may be the consultant retained by the commissioner under subsection (d) of this section or may be another third party agreed upon by the commissioner and the telecommunications service providers. The third party shall be responsible for aggregating the information and, once aggregated, may publicly disclose such information consistent with the purposes of this section. The confidentiality requirements of this subsection shall not affect whether information provided to an agency of the state or a political subdivision of the state pursuant to other laws is or is not subject to disclosure.

### Sec. 3. CREATION OF ONE-YEAR HIGH-COST PROGRAM

(a) There is created a high-cost program under which the universal service charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this state, thereby maintaining universal service. Payments shall be made to Vermont's incumbent local exchange carriers (ILECs) for the purpose of reducing the cost of providing basic local telecommunications service in areas where that cost would otherwise jeopardize universal service or uniform economic development.

(b) Funds distributed under the high-cost program are intended to defray the cost an ILEC incurs in building and maintaining its network so that it stands ready to serve any customer in its service area, even those in the most remote areas of Vermont. In order to achieve this goal, funding shall not be based upon the number of basic telecommunications services ordered, but rather upon the cost to serve any customer in that service area who may request basic local exchange service. This includes the costs of building and maintaining the entire network in each exchange in the applicable service area.

(c) The fiscal agent shall make distributions for the high-cost program to the ILECs, as required by this section. The percentage of funds distributed to each ILEC shall reflect the percentage of total access lines reported by each ILEC in its annual report to the public service board.

(d) Any funds in excess of \$1,000,000.00 remaining in the Vermont universal service fund as of September 1, 2012 shall be distributed among all the ILECs in a manner determined by the commissioner of public service.

### Sec. 4. STUDY ON THE STATE USF AND PREPAID WIRELESS TELECOMMUNICATIONS SERVICES

(a) The commissioner of public service or designee, in consultation with the commissioner of taxes or designee, shall convene a work group to study

issues related to application of the state's universal service charge established under 30 V.S.A. chapter 88 to prepaid wireless telecommunications services. The work group shall include representatives of prepaid wireless telecommunications service providers, Vermont retailers of prepaid wireless telecommunications services, consumers, the enhanced-911 program, and any other stakeholders identified by the commissioner. The study shall consider:

- (1) the retail transactions subject to the charge;
- (2) the amount of the charge;
- (3) application of the charge to bundled telecommunications services;
- (4) the effective date of any adjustments to the charge;
- (5) billing and collection procedures, including:

(A) notice of charges to consumers; and

(B) various payment and collection methods, including payment and collection procedures similar to those used for the sales and use tax imposed under 32 V.S.A. chapter 233;

(6) the ability of retailers or the department of taxes, if applicable, to retain a percentage of the fees collected to offset collection and administration costs and, if so, the percentage which may be retained; and

(7) any other matter deemed relevant by the commissioner.

(b) The commissioner, on behalf of the work group established under subsection (a) of this section, shall report his or her findings and recommendations to the house committee on commerce and economic development and the senate committee on finance not later than December 1, 2012. The report shall include draft legislation for consideration during the 2013 legislative session.

(c) It is the intent of the general assembly that the study authorized under this section shall not circumscribe any obligation which may be imposed on a wireless telecommunications service provider in pending or future proceedings before the public service board concerning designation as an eligible telecommunications carrier.

#### Sec. 5. EFFECTIVE DATE

(a) This act shall take effect on passage.

(b) Sec. 3 of this act (creation of high cost program) shall take effect on passage and shall be repealed on June 30, 2013.

(Committee vote: 5-0-2)

**Reported favorably by Senator Illuzzi for the Committee on Appropriations.**

(Committee vote: 5-0-2)

**S. 204.**

An act relating to creating an expert panel on the creation of a state bank.

**Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 993 is added to read:

§ 993. PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

(a)(1) Creation; composition. There is created a private activity bond advisory committee, which shall consist of the following members:

(A) the state treasurer or his or her designee;

(B) the secretary of administration or his or her designee;

(C) the secretary of commerce and community development or his or her designee;

(D) two members who shall be representatives of the public, appointed by the governor.

(2) Each public representative shall serve for a two-year term beginning February 1 or until his or her successor is appointed. The terms of the public representatives shall be staggered so that only one member's term expires in each year.

(3) The state treasurer or designee shall serve as chair of the committee.

(4) The office of the state treasurer shall provide administrative support to the committee.

(5) Except as provided in section 1010(d) of this title, members of the committee who are not legislative members or Vermont state employees shall be entitled to receive per diem compensation and expense reimbursement pursuant to subsections 1010(b) and (c), respectively, of this title.

(b) Committee charge.

(1) The committee shall survey the expected need for private activity bond allocations among constituted and eligible issuing authorities empowered to issue such bonds on an annual basis.

(2)(A) The committee shall develop guidelines for allocation of private activity bonding capacity designed to maximize the availability of tax-exempt financing among various sectors of the Vermont economy with a focus on economic development, housing, education, redevelopment, public works, energy, waste management, waste and recycling collection, transportation, and other activities that the committee determines will benefit the citizens of Vermont.

(B) The guidelines should support efforts and entities that increase the number of well-paying jobs in the state, promote economic development, support affordable housing, support affordable access to postsecondary education and training, and encourage the use of Vermont's human and natural resources in endeavors that maximize Vermont's comparative economic advantages. The guidelines should be flexible enough to include new and innovative uses of private activity bonds consistent with federal regulations and the Internal Revenue Code.

(3) The committee shall meet at least annually and shall hold at least one public hearing prior to submitting its recommendations to the emergency board. The committee shall further submit its recommendations in an annual report of its activities to the governor and the general assembly.

(4) On or before December 1 of each year, the committee shall make recommendations to the emergency board on the allocation, including any amounts reserved for contingency allocations, of the state's private activity bond ceiling for the following calendar year to and among the constituted issuing authorities empowered to issue such bonds.

(5) On its own initiative, at the request of the governor, or at the request of the emergency board, the committee may make recommendations to the governor or the emergency board concerning assignments or reallocation of any unused portion of the ceiling subsequent to the emergency board's initial allocation in a given year.

## Sec. 2. TRANSITION OF PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

Notwithstanding any provision of law to the contrary, on the effective date of this act, the private activity bond advisory committee created in Executive Order 14-11 shall become for all lawful purposes the private activity bond committee authorized in Sec. 1 of this act; provided, however, that the term of the public representative first appointed by the governor pursuant to EO 14-11 shall end on February 1, 2013, and the term of the public representative appointed second by the governor shall end on February 1, 2014.

\* \* \* Bonding Obligation Authority \* \* \*

Sec. 3. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the authority, there may be appropriated annually and paid to the authority for deposit in each such fund, such sum as shall be certified by the chair of the authority, to the governor or the governor-elect, the president of the senate, and the speaker of the house, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor or the governor-elect, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the authority during the then current state fiscal year. The principal amount of bonds or notes

outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~\$100,000,000.00~~ \$115,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the authority in contravention of the Constitution of the United States.

Sec. 4. 10 V.S.A. § 262(5) is amended to read:

(5) The principal obligation of the authority's mortgage does not exceed ~~\$1,300,000.00~~ \$1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the authority's mortgage does not exceed \$2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section;

Sec. 5. 10 V.S.A. § 216(15) is amended to read:

(15) To delegate to loan officers the power to review, approve and make loans under this chapter, subject to the approval of the manager, and to disburse funds on such loans, subject to the approval of the manager, provided that such loans do not exceed ~~\$250,000.00~~ \$350,000.00 in aggregate amount for any industrial loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity, or do not exceed ~~\$200,000.00~~ \$350,000.00 in aggregate amount if the loan is guaranteed by the

Farm Services Agency, or its successor agency, or ~~\$150,000.00~~ \$300,000.00 in aggregate amount if the loan is not guaranteed by the Farm Services Agency, or its successor agency, for any agricultural loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity. No funds may be disbursed for any loan approved under this provision, except for any agricultural loan referenced above in an amount not to exceed \$50,000.00, and no rejection of a loan by a loan officer pursuant to this subdivision shall become final, until three working days after the members of the authority are notified by facsimile, electronic mail, or overnight delivery mailed or sent on the day of approval or rejection, of the intention to approve or reject such loan. If any member objects within that three-day period, the approval or rejection will be held for reconsideration by the members of the authority at its next duly scheduled meeting;

Sec. 6. 10 V.S.A. § 221(a) is amended to read:

(a) Upon application of the proposed mortgagee, the authority may insure mortgage payments required to repay loans made by the mortgagee for the purpose of financing the costs of a project, upon such terms and conditions as the authority may prescribe; provided, however, that the total principal obligations of all mortgages insured under this subsection and under subsection (c) of this section outstanding at any one time shall not exceed ~~\$9,000,000.00~~ \$3,500,000.00. Before insuring any mortgage payments hereunder, the authority shall determine and incorporate each of the findings established by this subsection in its minutes. Such findings, when adopted by the authority shall be conclusive:

\* \* \*

#### Sec. 7. COMPREHENSIVE CAPITAL GAPS STUDY COMMITTEE

(a) Creation. There is created an expert committee for the purpose of identifying areas of Vermont's economy that have unmet or underserved access to capital, determining what barriers are preventing the efficient and appropriate flow of capital, and developing innovative strategies to make capital more accessible to these underserved areas. The committee shall receive administrative support from the office of the treasurer.

(b) Membership. The committee shall be composed of seven members as follows:

(1) the state treasurer or designee, who shall serve as chair of the committee;

(2) the deputy commissioner of banking within the department of banking, insurance, securities, and health care administration or designee;

(3) the secretary of commerce and community development or designee;

(4) a senior officer of a Vermont bank, who shall be appointed by the governor;

(5) a member of the public, who shall be appointed by the speaker of the house;

(6) a member of the public, who shall be appointed by the president pro tempore of the senate; and

(7) an executive director of a Vermont nonprofit organization which, as part of its mission, directly lends or services loans or other similar obligations, who shall be appointed by the governor.

(c) Powers and duties.

(1) The committee shall identify:

(A) The areas of Vermont's economy that are currently underserved by traditional private and public capital sources. Such areas may include: equity and debt financing for start-ups and growing small businesses; mortgage financing for low income families, first-time homebuyers, and nonprofit developers; underwriting and risk capital for multifamily housing and community facilities; low-interest financing for sustainable agriculture, energy efficiency and renewable energy ventures; and affordable financing for higher education opportunities for Vermonters;

(B) Public and quasi-public agencies that provide a combination of direct lending, bond financing, loan guarantees, and grant programs for the subject areas referenced in subdivision (1)(A) of this subsection (c). The committee shall receive testimony and reports for the purpose of completing an inventory of current capital sources and related services, missions, and goals, and the extent to which the results are consistent with expected volumes. These institutions may include: the Vermont economic development authority; the Vermont Housing Finance Agency; the Vermont Student Assistance Corporation; the Vermont municipal bond bank; the Vermont community loan fund; and the state treasurer's banking and investment services;

(C) Banking and private sector organizations that work with or provide services in the areas referenced in subdivision (1)(A) of this subsection (c);

(D) Economic impacts relative to financing activities undertaken by the organizations currently providing capital in the state;

(E) The main barriers, such as risk aversion, transactional limits, and existing regulations, that are inhibiting the access to capital in the underserved areas; and



(F) The extent to which capital to meet the needs identified in subdivision (1)(A) of this subsection (c) comes from Vermont sources or is invested in Vermont firms or organizations. Identify opportunities for local investment.

(2) On or before January 15, 2013, the committee shall submit a report of its findings and recommendations to the senate committee on finance and to the house committees on commerce and economic development and on ways and means. The report shall:

(A) Identify the extent to which the capital needs of the underserved areas are currently being met by traditional public and private funding sources, including how public and quasi-public agencies address their statutory missions, deploy Vermont's resources, and measure effectiveness;

(B) Recommend opportunities for collaboration to create efficiencies within existing public, quasi-public, and private financing channels with the goal of adding new capital investment rather than replacing existing markets;

(C) Identify and recommend options for combined activity, tools, policies, strategies, and funding options for strengthening the stated goals of various public and quasi-public agencies, the treasurer's office, financial institutions, and nonprofits that help to fill capital gaps in the marketplace;

(D) Recommend, where feasible, opportunities for collaboration to restructure or create efficiencies within and among state-sponsored financial institutions;

(E) Review feasibility of creating one or more vehicles or capacity to foster in-state investment opportunities where appropriate. These may include new delivery strategies-and changes to state treasury operations to foster local financing activities;

(F) Evaluate conceptual models of a state bank, green trust, or similar state-created institution authorized to aggregate state funds and raise capital and determine whether further detailed study should be conducted to determine whether one or more such institutions could effectively provide and leverage investment in the Vermont economy where capital needs are identified; and

(G) Provide recommendations that foster partnerships with banking institutions doing business in the state to address unmet needs.

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

and that when so amended the bill ought to pass, and that after passage the title of the bill be amended to read: "An act relating to state bonding authority and evaluating capital needs".

(Committee vote: 7-0-0)

**Reported favorably by Senator Kitchel for the Committee on Appropriations.**

(Committee vote: 5-0-2)

**Favorable with 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.

**Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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.

(Committee vote: 4-0-1)

(No House amendments.)

**CONCURRENT RESOLUTIONS FOR ACTION**

**S.C.R. 41-42** (For text of Resolutions, see Addendum to House Calendar for March 29, 2012)

**H.C.R. 319-327** (For text of Resolutions, see Addendum to House Calendar for March 29, 2012)

### **CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

David Luce of Waterbury Center – Member of the Community High School of Vermont Board- By Sen. Kittell for the Committee on Education. (1/13/12)

Patrick Flood of East Calais – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/8/12)

John Snow of Charlotte – Member of the Vermont Economic Development Authority – By Sen. Fox for the Committee on Finance. (2/8/12)

Martin Maley of Colchester – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (2/9/12)

Alison Arms of South Burlington – Superior Court Judge – By Sen. Snelli8lng for the Committee on Judiciary. (2/16/12)

Robert Bishop of St. Johnsbury – Member of the State Infrastructure Bank Board – By Sen. MacDonald for the Committee on Finance. (2/21/12)

John Valente of Rutland – Member of the Vermont Municipal Bond Bank – By Sen. McCormack for the Committee on Finance. (2/21/12)

James Volz of Plainfield – Chair of the Public Service Board – By Sen. Cummings for the Committee on Finance. (2/21/12)

Ed Amidon of Charlotte – Member of the Valuation Appeals Board – By Sen. Ashe for the Committee on Finance. (2/21/12)

### **PUBLIC HEARING**

**Thursday, April 12, 2012** – Room 11 – 6:30-8:30 P.M. – Re: H. 722 - Labeling of Food Produced with Genetic Engineering – House Committee on Agriculture.