Journal of the House

Monday, May 2, 2011

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Rebecca Clark of Trinity United Methodist Church, Montpelier, VT.

Message from the Senate No. 52

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 294. An act relating to approving amendments to the charter of the city of Montpelier.

H. 452. An act relating to establishing the boundary line between the towns of Shelburne and St. George.

And has passed the same in concurrence.

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

H. 6. An act relating to powers and immunities of the liquor control investigators.

H. 287. An act relating to job creation and economic development.

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

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 14. Senate concurrent resolution honoring John O'Kane for his career accomplishments at IBM and for his outstanding community service.

S.C.R. 15. Senate concurrent resolution commemorating the 25th anniversary of the Chernobyl nuclear disaster with thoughts of the current nuclear crisis in Japan.

S.C.R. 16. Senate concurrent resolution honoring Dr. Cyrus Jordan and Helen Riehle for their exemplary contributions to the improvement of high quality health care in Vermont.

S.C.R. 17. Senate concurrent resolution congratulating David Keenan on being named the Northeast Kingdom Chamber of Commerce 2011 Citizen of the Year.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 160. House concurrent resolution in memory of Blair Hamilton.

H.C.R. 161. House concurrent resolution congratulating Andre Messier of Lake Region Union High School on being named the 2012 Vermont MetLife/NASSP High School Principal of the Year.

H.C.R. 162. House concurrent resolution in memory of former Representative Willis Lansing Curtis.

H.C.R. 163. House concurrent resolution congratulating the Global Campuses Foundation on its tenth anniversary.

H.C.R. 164. House concurrent resolution designating October 15, 2011, as the sixth annual Vermont Pumpkin Carving Day.

H.C.R. 165. House concurrent resolution commemorating the 250th anniversary of the establishment of the town of Pawlet.

H.C.R. 166. House concurrent resolution congratulating McNeil & Reedy of Rutland City on the haberdashery's 55th anniversary.

H.C.R. 167. House concurrent resolution congratulating the South Royalton High School Global Impact Apprentice Water Quality Team.

H.C.R. 168. House concurrent resolution in memory of Dr. Arthur Faris.

H.C.R. 169. House concurrent resolution congratulating the town of Dorset on its 250th anniversary.

H.C.R. 170. House concurrent resolution congratulating the Reverend Donald J. Ravey on the 50th anniversary of his ordination as a Roman Catholic priest.

Rules Suspended; Senate Proposal of Amendment Not Concurred in;

Committee of Conference Requested and Appointed; Rules Suspended and Bill Ordered Messaged to the Senate Forthwith

H. 287

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to job creation and economic development;

Appearing on the Calendar for notice, was taken up for immediate consideration.

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

* * * Incentive Grants; VEGI * * *

Sec. 1. VEGI STUDY

On or before January 15, 2012, the secretary of commerce and community development shall conduct a comprehensive study of the Vermont employment growth incentive program and shall submit a report to the house committees on commerce and economic development and on ways and means, and to the senate committees on finance and on economic development, housing and general affairs. The study shall address the overall effectiveness of the program; the appropriate term and use of the "look back" provision and the wage threshold; the appropriate use of company-specific and industry background growth rates; the administrative burden the program imposes on both employers and on government; a comparison to similar programs in other states; and such other issues as the secretary deems necessary to evaluate changes to or elimination of the program.

Sec. 2. Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006) is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act. Unless extended by act of the General Assembly, as of ~~January~~ July 1, 2012, no new Vermont employment growth incentive (VEGI) awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to ~~January~~ July 1, 2012 may remain in effect until used.

Sec. 3. 32 V.S.A. § 5930a(c)(1) is amended to read:

(1) The enterprise should create new, full-time jobs to be filled by individuals who are Vermont residents. The new jobs shall not include jobs or employees transferred from an existing business in the state, or replacements

for vacant or terminated positions in the applicant's business. The new jobs include those that exceed the applicant's average annual employment level in Vermont during the two preceding ~~fiscal~~ years, unless the council determines that the enterprise will establish a significantly different, new line of business and create new jobs in the new line of business that were not part of the enterprise prior to filing its application for incentives with the council. The enterprise should provide opportunities that increase income, reduce unemployment, and reduce facility vacancy rates. Preference should be given to projects that enhance economic activity in areas of the state with the highest levels of unemployment and the lowest levels of economic activity.

Sec. 4. [RESERVED]

Sec. 5. 32 V.S.A. § 5930b(e) is amended to read:

(e) Reporting. By May 1, 2008 and by May 1 each year thereafter, the council and the department of taxes shall file a joint report on the employment growth incentives authorized by this section with the chairs of the house committee on ways and means, the house committee on commerce and economic development, the senate committee on finance, the senate committee on economic development, housing and general affairs, the house and senate committees on appropriations, and the joint fiscal committee of the general assembly and provide notice of the report to the members of those committees. The joint report shall contain the total authorized award amount of incentives granted during the preceding year, amounts actually earned and paid from inception of the program to the date of the report, including the date and amount of the award, the expected calendar year or years in which the award will be exercised, whether the award is currently available, the date the award will expire, and the amount and date of all incentives exercised. The joint report shall also include information on recipient performance in the year in which the incentives were applied, including the number of applications for the incentive, the number of approved applicants who complied with all their requirements for the incentive, the aggregate number of new jobs created, the aggregate payroll of those jobs and the identity of businesses whose applications were approved. The council and department shall use measures to protect proprietary financial information, such as reporting information in an aggregate form. Data and information in the joint report made available to the public shall be presented in a searchable format.

Sec. 6. [RESERVED]

Sec. 7. LONG-TERM UNEMPLOYED HIRING INCENTIVE

(a) In this section:

(1) "New full-time employment" means employment by a qualified employer in a permanent position at least 35 hours each week in the year for which an incentive is claimed at a compensation of not less than the average wage for the corresponding economic sector in the county of the state as determined by the Vermont department of labor.

(2) "Qualified employer" means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers' compensation policy.

(3) "Qualified long-term unemployed Vermonter" means a legal resident of Vermont who collected unemployment insurance benefits in the state of Vermont for five months or more or whose collection of unemployment insurance benefits has expired within 30 days of the date of new employment with a qualified employer and who was hired through a referral from the Vermont department of labor.

(b) A qualified employer who hires a qualified long-term unemployed Vermonter on or before December 31, 2012 shall be eligible to receive a hiring incentive one year after the employee's date of hire in the amount of $500.00 per employee. Incentive awards shall be made in the order in which they are claimed, as determined by the commissioner in his or her discretion, not to exceed $5,000.00 per recipient per year, and not to exceed a total program cap of $25,000.00.

(c) The commissioner of labor shall administer payment of incentives consistent with this section and shall develop:

(1) an application form for qualified employers; and

(2) a process for verifying compliance with the eligibility requirements of the program.

(d) The commissioner may, in his or her discretion, modify any requirement of and use the funds appropriated for this section in any other manner that furthers the goal of reducing the number of long-term unemployed Vermonters.

* * * Labor; Workforce Training * * *

Sec. 8. 10 V.S.A. § 541(d) is amended to read:

(d) The governor shall appoint one of the business or employer members to chair the council for a term of two years. A member shall not serve as chair in consecutive terms.

Sec. 8a. DEPT. OF LABOR; WORKFORCE DEVELOPMENT DIRECTOR; REPEAL

10 V.S.A. 541(h) (executive director of workforce development council) is repealed.

Sec. 9. FINDINGS: VERMONT TRAINING PROGRAM

The general assembly finds:

(1) The Vermont training program provides funds for the training of employees in new and existing businesses in the sectors of manufacturing, information technology, health care, telecommunications, and environmental engineering. The state offers three training initiatives: new employment, upgrade, and crossover training for incumbent workers. These individually designed training programs may include on-the-job, classroom, skill upgrade, or other specialized training which is mutually agreed upon between the state and employer.

(2) A report conducted by the legislative joint fiscal office pursuant to Sec. 14a. of No. 78 of the 2009 Adj. Sess. (2010) found that businesses that are served by the Vermont training program (VTP) see it as a valuable state program in support of small business and the workforce in Vermont.

(3)(A) In an analysis of a 2008 Economic Impact Study of the VTP, legislative economist Tom Kavet concluded that the 2008 study presented a much better picture of the VTP's return on investment than really can be demonstrated, due to its assumption that the "but for" condition applies to all the jobs for which VTP-subsidized training was made available; that is, these jobs would not have been created or retained nor would incremental wage gains have been achieved absent the VTP support.

(B) Kavet further found that, although job training programs can be important subsidies to businesses, without them many businesses would simply pay for the training themselves and accept this as a cost of doing business, and further that most companies in Vermont shoulder these costs without state subsidization.

(C) Finally, Kavet concluded that, although VTP is a good program that lowers the cost of doing business in Vermont by subsidizing job training that would probably be otherwise borne by the business or the individual, as with most state expenditures, the program is unlikely to be net fiscally positive.

(4) Currently, as is the case with many programs that receive state funding and are included in the unified economic development budget, the VTP is not collecting and reporting sufficient data, nor are sufficient

performance measures and benchmarks in place, to measure effectively the program's performance.

Sec. 10. 10 V.S.A. § 531 is amended to read:

§ 531. ~~EMPLOYMENT TRAINING~~ VERMONT TRAINING PROGRAM

(a) The secretary of commerce and community development may issue performance-based grants to any employer, consortium of employers, or ~~contract with~~ providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances:

(1) when issuing grants to an employer or consortium of employers, the employer promises as a condition of the grant to increase employment or provide training to enhance employment stability at an existing or expanded eligible facility within the state where eligible facility is defined as in subdivision 212(6) of this title relating to Vermont economic development authority, or the employer or consortium of employers promises to open an eligible facility within the state which will employ persons, provided that for the purposes of this section, eligible facility may be broadly interpreted to include employers in sectors other than manufacturing including the fields of information technology, telecommunications, health care, agriculture, and environmental technologies; and

* * *

(b) Eligibility for grant. The secretary of commerce and community development shall ~~find in the grant or contract that:~~

~~(1) the employer's new or expanded facility will enhance employment opportunities for Vermont residents;~~

~~(2) the existing labor force within the state will probably be unable to provide the employer with sufficient numbers of employees with suitable training and experience; and~~

~~(3) the employer provides its employees with at least three of the following:~~

~~(A) health care benefits with 50 percent or more of the premium paid by the employer;~~

~~(B) dental assistance;~~

~~(C) paid vacation and holidays;~~

~~(D) child care;~~

~~(E) other extraordinary employee benefits; and~~

~~(F) retirement benefits~~

by rule or emergency rule develop eligibility criteria for grants issued pursuant to this section.

(c) The employer promises as a condition of the grant to:

(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 30 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 20 percent of the gross program wage, upon completion of training; provided, however, that in areas defined by the secretary of commerce and community development in which the secretary finds that the rate of unemployment is ~~50~~ 30 percent greater than the average for the state, the wage rate under this subsection may be set by the secretary at a rate no less than one and one-half times the federal or state minimum wage, whichever is greater;

* * *

(4) submit a customer satisfaction report to the secretary of commerce and community development, on a form prepared by the secretary for that purpose, no more than 30 days from the last day of the training program.

(d) In ~~issuing a grant or entering a contract for the conduct of~~ order to avoid duplication of programs or services and to provide the greatest return on investment from training provided under this section, the secretary of commerce and community development shall:

(1) first consult with~~: the commissioner of education regarding vocational-technical education;~~ the commissioner of labor regarding ~~apprenticeship programs, on-the-job training programs, and recruiting services provided through Vermont Job Service and available federal training funds; the commissioner for children and families regarding welfare to work priorities; and the University of Vermont and the Vermont state colleges~~ whether the grantee has accessed, or is eligible to access, other workforce development and training resources offered by public or private workforce development partners;

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that a grant for on-the-job training shall either provide not more than 50 percent of wages for each employee in training, or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with

a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

(e) The secretary of commerce and community development shall administer all training programs under this section, may select and use providers of training as appropriate, and shall adopt rules and may accept services, money or property donated for the purposes of this section. The secretary shall promote awareness of, and shall give priority to, training that enhances critical skills, productivity, innovation, quality, or competitiveness, such as training in Innovation Engineering, "Lean" systems, and ISO certification for expansion into new markets.

* * *

(h) The secretary may designate the commissioner of economic, housing and community development to carry out his or her powers and duties under this chapter.

(i)~~(1) Program Outcomes. The joint fiscal office shall prepare a training program performance report based on the following information submitted to it by the Vermont training program, which is to be collected from each participating employer and then aggregated:~~

~~(A) The number of full-time employees six months prior to the training and six months after its completion.~~

~~(B) For all existing employees, the median hourly wages prior to and after the training.~~

~~(C) The number of "new hires," "upgrades," and "crossovers" deemed eligible for the waivers authorized by statute and the median wages paid to employees in each category upon completion.~~

~~(D) A list and description of the benefits required under subdivision (c)(3) of this section for all affected employees, including the number of employees that receive each type of benefit.~~

~~(E) The number of employers allowed to pay reduced wages in high unemployment areas of the state, along with the number of affected workers and their median wage.~~

~~(2) Upon request by the secretary of commerce and community development, participating employers shall provide the information necessary to conduct the performance report required by this subsection. The secretary, in turn, shall provide such information to the joint fiscal office in a manner~~

~~agreed upon by the secretary and the joint fiscal office. The secretary and the joint fiscal office shall take measures to ensure that company-specific data and information remain confidential and are not publicly disclosed except in aggregate form. The secretary shall submit to the joint fiscal office any program outcomes, measurement standards, or other evaluative approaches in use by the training program.~~

~~(3) The joint fiscal office shall review the information collected pursuant to subdivisions (1) and (2) of this subsection and prepare a training program performance report with recommendations relative to the program. The joint fiscal office shall submit its first training program performance report on or before January 15, 2011, to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development. A second performance report shall be submitted on or before January 15, 2016. In addition to the information evaluated pursuant to subdivision (1) of this subsection, the second report shall include recommendations as to the following:~~

~~(A) whether the outcomes achieved by the program are sufficient to warrant its continued existence.~~

~~(B) whether training program outcomes can be improved by legislative or administrative changes.~~

~~(C) whether continued program performance reports are warranted and, if so, at what frequency and at what level of review.~~

~~(4) The joint fiscal office may contract with a consultant to conduct the performance reports required by this subsection. Costs incurred in preparing each report shall be reimbursed from the training program fund up to $15,000.00.~~

Program Outcomes.

(1) On or before September 1, 2011, the agency of commerce and community development, in coordination with the department of labor and in periodic consultation with the joint fiscal office, shall develop, to the extent appropriate, a common set of benchmarks and performance measures for the training program established in this section and the workforce education and training fund established in section 543 of this title, and shall collect employee-specific data on training outcomes regarding the performance measures.

(2) On or before January 15, 2013, the joint fiscal office shall prepare a performance report using the benchmarks and performance measures created pursuant to subdivision (1) of this subsection. The joint fiscal office shall submit its report to the senate committee on economic development, housing

and general affairs and the house committee on commerce and economic development.

(3) The secretary shall use information gathered pursuant to this subsection and the survey results and customer satisfaction reports submitted pursuant to subdivision (c)(4) of this section to evaluate the program and make necessary changes that fall within the secretary's authority or, if beyond the scope of the secretary's authority, to recommend necessary changes to the appropriate committees of the general assembly.

* * *

(k) Annually on or before January 15, the secretary shall submit a report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs summarizing all active and completed contracts and grants, the types of training activities provided, the number of employees served and, the average wage by employer, and addressing any waivers granted.

Sec. 11. 10 V.S.A. § 544 is added to read:

§ 544. VERMONT CAREER INTERNSHIP PROGRAM

(a)(1) The department of labor, in consultation with the department of education, shall develop and implement a statewide Vermont Career Internship Program for Vermonters who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The department of labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont Career Internship Program may be used to administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that do all the following:

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate secondary and postsecondary students and recent graduates through work-based learning

opportunities with Vermont employers that are likely to lead to real employment;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; and

(F) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) For the purposes of this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded postsecondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont career internship program;

(2) collect data and establish program goals and quantifiable performance measures for internship programs funded through the Vermont career internship program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the state in the internship program to expand internship opportunities with state government and with entities awarded state contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the state.

Sec. 12. IMPLEMENTATION OF THE VERMONT CAREER INTERNSHIP PROGRAM; WORKERS' COMPENSATION

(a)(1) Program costs in fiscal year 2012 for the Vermont career internship program created in 10 V.S.A. § 544 shall be funded through an appropriation from the next generation initiative fund established in 16 V.S.A. § 2887.

(2) Funding in subsequent years shall be recommended by the department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded post-secondary

educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies.

(b) The state may provide workers' compensation coverage to participants in the Vermont career internship program authorized in 10 V.S.A. § 544. The state shall be considered a single entity solely for purposes of purchasing a single workers' compensation insurance policy providing coverage for interns. This subsection is intended to permit the state to provide workers' compensation coverage, and the state shall not be considered the employer of the participants for any other purposes. The cost of coverage may be deducted from grants provided for the internship program.

Sec. 13. 10 V.S.A. § 543(f) is amended to read:

(f) Awards. Based on guidelines set by the council, the commissioners of labor and of education shall jointly make awards to the following:

* * *

(2) Vermont Career Internship Program. ~~Public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, and colleges. For the purposes of this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily receive academic credit, financial remuneration, a stipend, or any combination of these. Awards under this subdivision may be used to fund the cost of administering an internship program and to provide students with a stipend during the internship, based on need. Awards may be made only to programs or projects that do all the following:~~

~~(A) do not replace or supplant existing positions;~~

~~(B) create real workplace expectations and consequences;~~

~~(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;~~

~~(D) are designed to motivate and educate secondary and postsecondary students through work-based learning opportunities with Vermont employers that are likely to lead to real employment;~~

~~(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools;~~

~~(F) involve Vermont employers or interns who are Vermont residents; and~~

~~(G) offer students a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.~~ Funding for eligible internship programs and activities under the Vermont career internship program established in section 544 of this section.

Sec. 14. REPEAL

10 V.S.A. § 542 (regional workforce development) is repealed.

Sec. 14a. WORKFORCE DEVELOPMENT PERFORMANCE GRANTS

(a) The commissioner of labor, in consultation with the secretary of commerce and community development, is authorized to issue up to $75,000.00 in performance grants to one or more persons to perform workforce development activities in a region.

(b) Each grant shall specify the scope of the workforce development activities to be performed, the geographic region to be served, and shall include outcomes and measures to evaluate the grantee's performance.

(c) The secretary and the commissioner shall jointly develop a grant process and eligibility criteria, as well as an outreach process for notifying potential participants of the grant program.

* * * Entrepreneurship; Creative Economy * * *

Sec. 15. 3 V.S.A. § 2471c is added read:

§ 2471c. OFFICE OF CREATIVE ECONOMY; VERMONT FILM COMMISSION

(a) The office of creative economy is created within the agency of commerce and community development in order to build upon the years of work and energy around creative economy initiatives in Vermont, including the work of the Vermont film commission. The office shall provide business, networking, and technical support to establish, grow, and attract enterprises involved with the creative economy, primarily focused on but not limited to such areas as film, new and emerging media, software development, and innovative commercial goods. The office shall work in collaboration with Vermont's private and public sectors, including educational institutions, to raise the profile and economic productivity of these activities.

(b) The office shall be administered by a director appointed by the secretary pursuant to section 2454 of this title and shall be supervised by the

commissioner of the department of economic, housing and community development.

Sec. 16. REPEAL; ASSIGNMENT OF DUTIES; VERMONT FILM CORPORATION

(a) 10 V.S.A. chapter 26 (Vermont film corporation; Vermont film production incentive program) is repealed.

(b) The duties of the Vermont film corporation shall be transferred to the agency of commerce and community development.

Sec. 17. 3 V.S.A. § 2471d is added read:

§ 2471d. VERMONT FILM AND NEW MEDIA ADVISORY BOARD

The secretary of commerce and community development shall appoint a film advisory board to make recommendations to the secretary on promoting Vermont as a location for commercial film and television production and facilitating the participation of local individuals and companies in such productions. The primary function of the advisory board is to recommend to the secretary strategies to link Vermonters employed in the film and new media, video, or other creative arts, to economic opportunities in their trades in Vermont.

Sec. 18. 11A V.S.A. § 8.20 is amended to read:

§ 8.20. MEETINGS

(a) The board of directors may hold regular or special meetings, as defined in subdivision 1.40(26) of this title, in or outside this state.

(b) The board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 19. 11B V.S.A. § 8.20 is amended to read:

§ 8.20. REGULAR AND SPECIAL MEETINGS

(a) If the time and place of a directors' meeting is fixed by the bylaws or the board, the meeting is a regular meeting. All other meetings are special meetings.

(b) A board of directors may hold regular or special meetings in or out of this state.

(c) Unless the articles of incorporation or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 20. [Deleted]

* * * Finance; Access to Capital * * *

Sec. 21. 10 V.S.A. chapter 3 is added to read:

CHAPTER 3. EB-5 INVESTMENT

§ 21. EB-5 ENTERPRISE FUND

(a) An EB-5 enterprise fund is created for the operation of the state of Vermont EB-5 visa regional development center. The fund shall consist of revenues derived from fees charged by the agency of commerce and community development pursuant to subsection (c) of this section, any interest earned by the fund, and all sums which are from time to time appropriated for the support of the regional development center and its operations.

(b)(1) The receipt and expenditure of moneys from the enterprise fund shall be under the supervision of the secretary of commerce and community development.

(2) The secretary shall maintain accurate and complete records of all receipts and expenditures by and from the fund, and shall make an annual report on the condition of the fund to the secretary of administration, the house committees on commerce and on ways and means, and the senate committees on finance and on economic development, housing and general affairs.

(3) Expenditures from the fund shall be used only to administer the EB-5 program. At the end of each fiscal year, the secretary of administration shall transfer from the EB-5 enterprise fund to the general fund any amount that the secretary of administration determines, in his or her discretion, exceeds the funds necessary to administer the program.

(c) Notwithstanding 32 V.S.A. chapter 7, subchapter 6 (establishment of executive and judicial branch fees), the secretary of commerce and community development is authorized to impose an administrative fee for services provided by the agency to investors in administering the state of Vermont EB-5 visa regional development center.

Sec. 22. EB-5 ENTERPRISE FUND FEE REPORT

On or before January 15, 2012, the secretary of commerce and community development shall submit a memorandum to the house committee on ways and means and the senate committee on finance concerning the performance of the EB-5 enterprise fund, including the number of projects and investors served, the amount of the fees imposed and collected, and recommendations concerning the EB-5 enterprise fund and the appropriate fee structure for the program.

* * * Housing and Development * * *

Sec. 23. FINDINGS: VERMONT NEIGHBORHOODS

The general assembly finds:

(1) The Vermont neighborhoods program offers benefits to municipalities and developers with projects that promote affordable, high-density, smart growth principles in areas of the town most suitable for targeted growth and infill development.

(2) Among the benefits afforded by the program, projects within designated Vermont neighborhoods can be designed to reduce the scope and cost of Act 250 jurisdiction, can reduce environmental permitting costs, and in some cases can eliminate land gains tax.

(3) The process for achieving a Vermont neighborhoods designation has proven to be either too costly or administratively burdensome for most towns in Vermont, and as a result, very few designations have been made since the creation of the designation.

(4) By providing landowners the ability to apply for Vermont neighborhood designation directly and in compliance with procedures designed to ensure public notice and participation, developers, municipalities, and Vermonters will likely benefit from expansion of the Vermont neighborhoods program and the types of smart growth development it promotes.

Sec. 23a. 24 V.S.A. § 2793d is amended to read:

§ 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

(a) ~~A~~ The Vermont downtown development board may designate a Vermont neighborhood in a municipality that has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title, has adopted zoning bylaws and subdivision regulations in accordance with section 4442 of this title, and has a designated downtown district, a designated village center, a designated new town center, or a designated growth center served by municipal sewer infrastructure or a

community or alternative wastewater system approved by the agency of natural resources~~, is authorized to apply for designation of a Vermont neighborhood~~. An application for designation may be made by a municipality or by a landowner who meets the criteria under subsection (f) of this section. ~~A municipal decision to apply for designation shall be made by the municipal legislative body after at least one duly warned public hearing~~ An application by a municipality or a landowner shall be made after at least one duly warned public hearing by the legislative body. If the application is submitted by a landowner, the public hearing shall be a joint public hearing with representation from the municipal legislative body and the appropriate municipal panel, and shall be held concurrently with the local permitting process. Designation pursuant to this subsection is possible in two different situations:

(1) Per se approval. If a municipality or landowner submits an application in compliance with this subsection for a designated Vermont neighborhood that would have boundaries that are entirely within the boundaries of a designated downtown district, designated village center, designated new town center, or designated growth center, the downtown board shall issue the designation.

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

* * *

(f) Alternative designation in towns without density or design standards. If a municipality has not adopted either the minimum density requirements or design standards, or both, set out in subdivision (c)(5) of this section in its zoning bylaw, a landowner within a proposed Vermont neighborhood may apply to the downtown board for designation of a Vermont neighborhood that meets the standards set out in subdivision (c)(5) of this section by submitting:

(1) a copy of the plans and necessary municipal permits obtained for a project; and

(2) a letter of support for the project issued to the landowner from the municipality within 30 days of the effective date of a final municipal permit.

Sec. 24. FINDINGS: SMALL CONDOMINIUM EXCEPTION TO UCIOA

The general assembly finds:

(1) There are two kinds of common interest communities governed by the Vermont Common Interest Ownership Act: planned communities and condominiums, either of which may be used for the subdivision of land or for the subdivision of a building.

(2) Under current law, a small planned community of 24 or fewer units is exempt from all but three sections of Title 27A, but only if a declarant does not reserve any development rights.

(3) Certain projects require a reservation of development rights because they are developed in phases, and later phases are often not completely designed when a developer begins construction, particularly in cases that blend affordable rentals with subsidized home ownership units, or in projects that include rental housing mixed with commercial space.

(4) By including an exception for small condominium projects, developers of affordable housing and mixed use projects have the statutory authority necessary to utilize most effectively monies available through programs such as the new markets tax credit program, the low income housing tax credit, the community development institutions fund, and diverse private and nonprofit capital streams to maximize funding opportunities for these projects.

Sec. 25. 27A V.S.A. § 1-209 is amended to read:

§ 1-209. SMALL CONDOMINIUMS; EXCEPTION; ACCESS TO MIXED FUNDING SOURCES

~~A condominium that will contain no more than 12 units and is not subject to any development rights, unless the declaration provides that the entire act is applicable, shall not be subject to subsection~~ Subsection 2-101(b), subdivisions 2-109(b)(2) and (11), subsection 2-109(g), section 2-115, and Article 4 of this title shall not apply to a condominium if the declaration:

(1) creates fewer than ten units; and

(2) restricts ownership of a unit to entities that are controlled by, affiliated with, or managed by the declarant.

Sec. 26. REPEAL

Sec. 12 of No. 155 of the Acts of the 2009 Adj. Sess. (2010) (repeal of 27A V.S.A. § 1-209, effective January 1, 2012) is repealed.

Sec. 27. [RESERVED]

Sec. 28. [RESERVED]

* * * Economic Development Planning * * *

Sec. 29. 3 V.S.A. § 2293 is amended to read:

§ 2293. DEVELOPMENT CABINET

(a) Legislative purpose. The general assembly deems it prudent to establish a permanent and formal mechanism to assure collaboration and consultation among state agencies and departments, in order to support and encourage Vermont's economic development, while at the same time conserving and promoting Vermont's traditional settlement patterns, its working and rural landscape, its strong communities, and its healthy environment, all in a manner set forth in this section.

(b) Development cabinet. A development cabinet is created, to consist of the secretaries of the agencies of administration, of natural resources, of commerce and community affairs, ~~and~~ of transportation, and ~~the secretary of the agency~~ of agriculture, food and markets. The governor or the governor's designee shall chair the development cabinet. The development cabinet shall advise the governor on how best to implement the purposes of this section, and shall recommend changes as appropriate to improve implementation of those purposes. The development cabinet may establish interagency work groups to support its mission, drawing membership from any agency or department of state government.

(c) All state agencies that have programs or take actions affecting land use, including those identified under 3 V.S.A. chapter 67, shall, through or in conjunction with the members of the development cabinet:

(1) Support conservation of working lands and open spaces.

(2) Strengthen agricultural and forest product economies, and encourage the diversification of these industries.

(3) Develop and implement plans to educate the public by encouraging discussion at the local level about the impacts of poorly designed growth, and support local efforts to enhance and encourage development and economic growth in the state's existing towns and villages.

(4) Administer tax credits, loans, and grants for water, sewer, housing, schools, transportation, and other community or industrial infrastructure, in a manner consistent with the purposes of this section.

(5) To the extent possible, endeavor to make the expenditure of state appropriations consistent with the purposes of this section.

(6) Encourage development in, and work to revitalize, land and buildings in existing village and urban centers, including "brownfields," housing stock, and vacant or underutilized development zones. Each agency is to set meaningful and quantifiable benchmarks.

(7) Encourage communities to approve settlement patterns based on maintaining the state's compact villages, open spaces, working landscapes, and rural countryside.

(8) Encourage relatively intensive residential development close to resources such as schools, shops, and community centers and make infrastructure investments to support this pattern.

(9) Support recreational opportunities that build on Vermont's outstanding natural resources, and encourage public access for activities such as boating, hiking, fishing, skiing, hunting, and snowmobiling. Support and work collaboratively to make possible sound development and well-planned growth in existing recreational infrastructure.

(10) Provide means and opportunity for downtown housing for mixed social and income groups in each community.

(11) ~~Report annually to the governor and the legislature, through the chair of the development cabinet and the secretary of administration, on the effectiveness and impact of this section on the state's economic growth and land use development and the activities of the council of regional commissions.~~

(12) Encourage timely and efficient processing of permit applications affecting land use, including 10 V.S.A. chapter 151 and the subdivision regulations adopted under 18 V.S.A. § 1218, in order to encourage the development of affordable housing and small business expansion, while protecting Vermont's natural resources.

(13) Participate in creating a long-term economic development plan, including making available the members of any agency or department of state government as necessary and appropriate to support the mission of an interagency work group established under subsection (b) of this section.

(d)(1) Pursuant to the recommendations of the oversight panel on economic development created in Section G6 of No. 146 of the Acts of the 2009 Adj. Sess. (2010), the development cabinet shall create an interagency work group as provided in subsection (b) of this section with the secretary of commerce and community development serving as its chair.

(2) The mission of the work group shall be to develop a long-term economic development plan for the state, which shall identify goals and recommend actions to be taken over ten years, and which shall be consistent with the four goals of economic development identified in 10 V.S.A. § 3 and the outcomes for economic development identified in Sec. 8 of No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(e)(1) On or before January 15, 2014, and every two years thereafter, the development cabinet or its workgroup shall complete a long-term economic development plan as required under subsection (d) of this section and recommend it to the governor.

(2) Commencing with the plan due on or before January 15, 2016, the development cabinet or its workgroup may elect only to prepare and recommend to the governor an update of the long-term economic development plan.

(3) Administrative support for the economic development planning efforts of the development cabinet or its workgroup shall be provided by the agency of commerce and community development.

~~(d)~~(f) Limitations. This cabinet is strictly an information gathering and coordinating cabinet and confers no additional enforcement powers.

Sec. 30. [RESERVED]

Sec. 31. [RESERVED]

Sec. 32. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include but need not be limited to the following:

* * *

(10) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

* * *

Sec. 33. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other

municipalities in the region and with the regional plan and shall include the following:

* * *

(11) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

* * *

* * * Agriculture; Vermont Sustainable Jobs Fund * * *

Sec. 34. SLAUGHTERHOUSE AND MEAT PROCESSING FACILITY CAPACITY

The agency of agriculture, food and markets is authorized to issue one or more competitive matching grants to increase slaughterhouse and meat processing facility capacity throughout the state. Funds made available in a fiscal year for this section shall be used exclusively for direct grants and shall not be used for administration of the program.

Sec. 35. FINDINGS: VERMONT SUSTAINABLE JOBS FUND (VSJF)

The general assembly finds:

(1) In order to access funds available from the community development financial institutions fund, the nonprofit corporation Vermont sustainable jobs must demonstrate that it is sufficiently independent from control of government.

(2) The general assembly has made a substantial investment in recent years to enable the work of VSJF in enhancing the agricultural sector and resources within the state, and finds it important to maintain a presence on the board while allowing VSJF to access additional sources of funding.

(3) Therefore, the purpose and intent of Secs. 35a through 38 of this act is to authorize a change in the composition of the VSJF board to allow it to access necessary funds, while also preserving the state's connection to the governance of the board.

Sec. 35a. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

* * *

(c)(1) Notwithstanding the provisions of subdivision 216(14) of this title, the authority may contribute not more than $1,000,000.00 to the capital of the corporation formed under this section, and the board of directors of the

corporation formed under this section shall consist of ~~three members of the authority designated by the authority, the secretary of commerce and community development, and seven members who are not officials or employees of a governmental agency appointed by the governor, with the advice and consent of the senate, for terms of five years, except that the governor shall stagger initial appointments so that the terms of no more than two members expire during a calendar year~~:

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

(B) the secretary of agriculture, food and markets or his or her designee;

(C) a director appointed by the governor; and

(D) eight independent directors, no more than two of whom shall be state government employees or officials, and who shall be selected as vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the board created for that purpose.

(2)(A) Each independent director shall serve a term of three years or until his or her earlier resignation.

(B) A director may be reappointed, but no independent director and no director appointed by the governor shall serve for more than three terms.

(C) The director appointed by the governor shall serve at the pleasure of the governor and may be removed at any time with or without cause.

(3) A director of the board who is or is appointed by a state government official or employee shall not be eligible to hold the position of chair, vice chair, secretary, or treasurer of the board.

* * *

Sec. 36. VERMONT SUSTAINABLE JOBS FUND BOARD OF DIRECTORS; TRANSITION

Notwithstanding any other provision of law to the contrary, and notwithstanding any provision of the articles of incorporation or the bylaws of the corporation:

(1) The chair, vice chair, and secretary of the Vermont sustainable jobs fund board of directors as of January 1, 2011 shall constitute an initial nominating committee charged with appointing eight independent directors who shall take office on July 1, 2011.

(2) The initial nominating committee shall appoint each independent director to serve a term of one, two, or three years. Independent director terms

shall be staggered so that the terms of no more than three members expire during a calendar year.

(3) The terms of the directors in office on the date of passage of this act shall expire on July 1, 2011.

Sec. 37. REPEAL

Secs. G18 and G19 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) are repealed.

Sec. 38. Sec. G28 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. G28. EFFECTIVE DATES

Secs. G1 through G28 of this act (economic development) shall take effect upon passage~~, except that Secs. G18 and G19 (Vermont sustainable jobs~~

~~(A) Secs. G18 and G19 (Vermont sustainable job fund program) shall take effect upon the cessation of state funding to the program from the general fund~~.

Sec. 39. 6 V.S.A. § 20 is amended to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL LOAN REPAYMENT FUND

(a) There is created a special fund to be known as the Vermont large animal veterinarian educational loan repayment fund that shall be used for the purpose of ensuring a stable and adequate supply of large animal veterinarians ~~throughout~~ in regions of the state as determined by the secretary. The fund shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this section. The money in the fund shall be invested in the same manner as permitted for investment of funds belonging to the state or held in the treasury.

* * *

Sec. 40. 6 V.S.A. chapter 207 is amended to read:

CHAPTER 207. ~~STATE AGENCIES AND STATE-FUNDED INSTITUTIONS TO PURCHASE~~ PROMOTION AND MARKETING OF VERMONT FOODS AND PRODUCTS

* * *

§ 4602. GOOD AGRICULTURAL PRACTICES GRANT PROGRAM

(a) A good agricultural practices grant program (GAP) is established in the agency of agriculture, food and markets for the purpose of providing matching

grant funds to agricultural producers whose markets require them to obtain or maintain GAP certification.

(b) The secretary may award matching grants for capital upgrades that will support Vermont agricultural producers in obtaining GAP certification. The amount of matching funds required by an applicant for a GAP certification grant shall be determined by the secretary.

(c) An applicant may receive no more than 10 percent of the total funds appropriated for the program in a fiscal year.

Sec. 41. 6 V.S.A. § 3319 is added to read:

§ 3319. SKILLED MEAT CUTTER TRAINING

The secretary shall issue a request for proposals to develop a curriculum and provide classroom and on-the-job training for the occupation of skilled meat cutter.

Sec. 42. 6 V.S.A. § 4724 is added to read:

§ 4724. LOCAL FOODS COORDINATOR

(a) The position of local food coordinator is established in the agency of agriculture, food and markets for the purpose of assisting Vermont producers to increase their access to commercial markets and institutions, including schools, state and municipal governments, and hospitals.

(b) The duties of the local foods coordinator shall include:

(1) working with institutions, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the agency of agriculture, food and markets, and coordinating with interested parties to create matchmaking opportunities that increase participation in those programs;

(3) working with the department of buildings and general services to encourage the enrollment of state employees in a local community supported agriculture (CSA) organization;

(4) developing a database of producers and potential purchasers and enhancing the agency's website to improve and support local foods coordination through the use of information technology; and

(5) providing technical support to local communities with their food security efforts.

(c) For purposes of this section, and notwithstanding 29 V.S.A. § 5, the commissioner of buildings and general services and the agency of agriculture, food and markets may authorize the advertisement or solicitation on state property of one or more local CSA organizations, subject to reasonable restrictions collaboratively adopted by the commissioner and the secretary on the time, manner, and location of such advertisements or solicitations, in order to encourage and enable state employees to enroll in a CSA.

(d) The local foods coordinator shall administer a local foods grant program, the purpose of which shall be to provide grants to allow Vermont producers to increase their access to commercial and institutional markets.

Sec. 43. FARM-TO-PLATE INVESTMENT PROGRAM IMPLEMENTATION

(a)(1) The agency of agriculture, food and markets shall coordinate with the Vermont sustainable jobs fund program established under 10 V.S.A. § 328, stakeholders, and other interested parties, including the agriculture development board, to implement actions necessary to fulfill the goals of the farm-to-plate investment program as established under 10 V.S.A. § 330.

(2) The actions shall be guided by, but not limited to, the strategies outlined in the farm-to-plate strategic plan.

(3) The agency shall develop and maintain a report of the actions undertaken to achieve the goals of the farm-to-plate investment program and the farm-to-plate strategic plan.

(b) The secretary of agriculture, food and markets may contract with a third party to assist the agency with implementation of the program, to track those activities over time, and to develop a report on the progress of the program.

Sec. 44. [Deleted]

* * * Consumer Protection; Local Florists * * *

Sec. 45. 9 V.S.A. § 2465b is added to read:

§ 2465b. MISREPRESENTATION OF A FLORAL BUSINESS AS LOCAL

(a) In connection with the sale of floral products, it shall be an unlawful and deceptive act and practice in commerce in violation of section 2453 of this title for a floral business to misrepresent in an advertisement, on the Internet, on a website, or in a listing of the floral business in a telephone directory or other directory assistance database the geographic location of the floral business as "local," "locally owned," or physically located within Vermont.

(b) A floral business is considered to misrepresent its geographic location that it is "local," "locally owned," or located within Vermont in violation of

subsection (a) of this section if the floral business is not physically located in Vermont and:

(1) the advertisement, Internet, web site, or directory listing would lead a reasonable consumer to conclude that the floral business is physically located in Vermont; or

(2) the advertisement, Internet, web site, or directory listing uses the name of a floral business that is physically located in Vermont, with geographic terms that would lead a reasonable consumer to understand the advertised floral business to be physically located in Vermont.

(c) A retail floral business physically located in Vermont shall be deemed a consumer for the purposes of enforcing this section under § 2461(b) of this chapter.

* * * Study of Vermont Building Codes * * *

Sec. 46. STUDY; VERMONT BUILDING CODES

(a) Findings.

(1) The state of Vermont has two codes that are used to regulate construction in public buildings: one is the International Code Council (ICC) who publishes the International Building Code (IBC) which is adopted by the State, the other is National Fire Protection Association (NFPA), who publishes the (Life Safety Code and Uniform Fire Code) adopted by the State. In most cases, the life safety codes do not regulate the actual construction of buildings, but rather, are designed to protect life safety and property. Other states may use only the International Code Council codes; however, these codes have greater than 300 references to the NFPA codes; in addition, these states also modified the code for particular local or state issues. Some states have no building codes at all.

(2) Construction is regulated under the Division of Fire Safety and by municipal code officials. Application of these codes should be consistent throughout the state. This would help to reduce confusion with contactors, design professional, and the enforcement staff located in regional offices and municipalities. It would also reduce time during the design process and improve efficiency. The issues are further complicated when determining the appropriate application of one or more codes to both new buildings and to existing buildings, it is realized that the IBC code is not appropriate to use for existing building which may present differing concerns from the perspective of both construction, and design professionals, however, those working in the field of existing building renovation understand that the use of the NFPA codes are applied by public safety.

(3) Notwithstanding these competing perspectives, Vermont's blend of codes remains difficult for most professionals from all perspectives to interpret and apply. It is appropriate for design professionals to meet with division staff during preconstruction of complex design, this is a free service which is encouraged. A better understanding of the codes through education and cooperation would substantially reduce public resources.

(4) The general assembly therefore has determined that it should create an interim committee to consider whether the process may be simplified to improve clarity and reduce regulatory costs without reducing life safety for occupants and for first responders in the case of emergency.

(b) Creation of committee. There is created a building code study committee to evaluate the present use of multiple building and life safety codes, to assess the costs and benefits of each, to recommend to the general assembly whether one or more codes should used going forward, and to what types of buildings or classes of buildings they should be applied.

(c) Creation of committee. There is created a building code study committee to evaluate the present use of multiple building and life safety codes, to assess the costs and benefits of each, to recommend to the general assembly whether one or more codes should used going forward, and to what types of buildings or classes of buildings they should be applied.

(d) Membership. The building code study committee shall be composed of the following:

(1) one member appointed by the division of fire safety within the department of public safety who shall serve as chair of the committee;

(2) one member appointed by the AIA-VT who shall be a licensed architect;

(3) one member appointed by the Structural Engineers Association of Vermont who shall be a structural engineer;

(4) two members appointed by the Vermont Coalition of Fire and Rescue Services, one of whom shall be a professional firefighter, and one of whom shall be an emergency medical technician;

(5) one member appointed by the Associated General Contractors of Vermont who is a general contractor;

(6) one member appointed by the governor who shall be a representative of a nonprofit developer; and

(7) two members appointed by the Vermont League of Cities and Towns, one from a city and one from a town, and each of whom represent the interests of municipalities that administer building code programs.

(8) one member appointed by the secretary of commerce and community development who shall have expertise in historic preservation.

(e) Report. On or before January 15, 2011, the committee shall report its findings and any recommendations for legislative action to the house committees on commerce and economic development and on general, housing and military affairs, and to the senate committee on economic development, housing and general affairs.

(f) The committee may meet no more than six times, shall serve without compensation, and shall cease to exist on January 31, 2011.

Sec. 47. [Deleted]

Sec. 48. [Deleted]

* * * Website for Affiliates of Online Retailers Collecting Sales Tax * * *

Sec. 49. [RESERVED]

Sec. 50. ACCD; WEBSITE FOR AFFILIATES OF ONLINE BUSINESSES

The agency of commerce and community development shall create a website, or a new section of its website, the purpose of which shall be to provide matchmaking opportunities for Vermont companies to affiliate with online retailers that collect and remit sales tax on purchases made online.

* * * TIFs * * *

Sec. 51. 24 V.S.A. § 1891 is amended to read:

§ 1891. DEFINITIONS

When used in this subchapter:

* * *

(6) "Related costs" means expenses, exclusive of the actual cost of constructing and financing improvements that are directly related to creation of the tax increment financing district and reimbursement of sums previously advanced by the municipality for those purposes, and attaining the purposes and goals for which the tax increment financing district was created, as approved by the Vermont economic progress council. Related costs may include municipal expenses related to administering the district to the extent they are paid from the tax increment realized in municipal and not education fund taxes.

(7) "Financing" means ~~the following types of~~ debt that meets or exceeds any quality or safety standards for borrowing adopted by the municipality, and that is incurred or used by a municipality to pay for improvements in a tax increment financing district~~:~~

~~(A) Bonds.~~

~~(B) Housing and Urban Development Section 108 financing instruments.~~

~~(C) Interfund loans within a municipality.~~

~~(D) State of Vermont revolving loan funds.~~

~~(E) United States Department of Agriculture loans~~.

Sec. 52. 24 V.S.A. § 1894 is amended to read:

§ 1894. POWER AND ~~LIFE~~ DURATION OF DISTRICT

(a) Incurring indebtedness.

(1) A municipality may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to 20 years following the creation of the district, if approved as required under 32 V.S.A. § 5404a(h). The creation of the district shall occur at 12:01 a.m. on the April 1 ~~of the year so voted~~ that follows the vote by the legislative body of the municipality. Any indebtedness incurred during this 20-year period may be retired over any period authorized by the legislative body of the municipality under section 1898 of this title.

(2) If no indebtedness is incurred within the first ~~five~~ ten years after creation of the district, no indebtedness may be incurred unless the municipality obtains re-approval from the Vermont economic progress council under 32 V.S.A. § 5404a(h).

(3) The district shall continue until the date and hour the indebtedness is retired.

(b) Use of the education property tax increment. For any debt incurred within the first ~~five~~ ten years after creation of the district, or ~~within the first five years~~ after ~~re-approval~~ reapproval by the Vermont economic progress council, but for no other debt, the education tax increment may be retained for up to 20 years beginning with the initial date of the ~~first debt incurred within the first five years~~ creation of the district or on April 1 of the year in which debt is first incurred. If the municipality chooses to begin the 20-year retention period in the year debt is first incurred, the assessed valuation of all taxable real property within the district, as certified under section 1895 of this title, shall be recertified as of April 1 of the year in which the first debt is incurred.

The municipality shall submit a tax increment financing plan amendment to the council, including the recertified assessed valuation.

* * *

Sec. 53. 24 V.S.A. § 1897(a) is amended to read:

(a)(1) The legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the financing for improvements and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the council, and in the case of infrastructure essential to the development of the district that does not reasonably lend itself to a proportionality formula, the council shall apply a rough proportionality and rational nexus test; provided, that if any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(f), no more than 75 percent of the state property tax increment and no less than an equal percent of the municipal tax increment may be used to service this debt.

(2) Bonds shall only be issued if the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, give authority to the legislative body to pledge the credit of the municipality for these purposes.

(3) Notwithstanding any provision of any municipal charter, the legal voters of a municipality~~, by a single vote,~~ shall authorize the legislative body to pledge the credit of the municipality up to a specified maximum dollar amount for ~~all~~ debt obligations to be financed with state property tax increment pursuant to approval by the Vermont economic progress council and subject to the provisions of this section and 32 V.S.A. § 5404a.

(4) Authorization for debt may be granted all in one vote or in separate votes for each debt obligation.

(5) Background information to be made available to voters shall include the project description, a development financing plan, a pro forma projection of expected costs, and a development schedule that includes a list, a cost estimate, and a schedule for public improvements, and projected private development to occur as a result of the improvements.

Sec. 54. 24 V.S.A. § 1902 is added to read:

§ 1902. TAX INCREMENT FINANCING DISTRICTS; CAP

Notwithstanding any other provision of law, the Vermont economic progress council shall not approve the use of education tax increment financing for more than ten tax increment financing districts and shall not approve more

than one newly created tax increment financing district in any municipality within the period of ten state fiscal years beginning July 1, 2009. For purposes of this section a reapproval of a tax increment financing shall not be counted against the cap of ten tax increment financing districts.

Sec. 55. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

* * *

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont economic progress council shall do all the following:

* * *

(5) TIF District Criteria. Determine, the extent possible at the time of the application, that the TIF district plan and TIF financing plan, as presented to the municipality for a public hearing, approved by a vote of the municipal legislative body, and filed with the council, meet the definitions, requirements, and conditions of subchapter 5 of chapter 53 of Title 24.

(i) The Vermont economic progress council and the department of taxes shall make an annual report to the senate committee on economic development, housing and general affairs, the senate committee on finance, the house committee on commerce and the house committee on ways and means of the general assembly on or before ~~January 15~~ April 30. The report shall include, in regard to each existing tax increment financing district, the year of approval, the scope of the planned improvements and development, the ~~equalized education grand list value of the district prior to the TIF approval,~~ the original taxable ~~property~~ value, the annual and aggregated municipal and education property tax increment generated, the actual improvements and developments that have occurred, and ~~the annual amount of tax increments utilized~~ any material or substantive amendments to previously approved TIF districts.

(j) The municipality shall provide the council with all information related to the proposed financing necessary to assure its consistency with the plan approved pursuant to all other provisions of subsection (h) of this section. The council shall assure the viability and reasonableness of any proposed financing other than bonding and least-cost financing.

(k) The Vermont economic incentive review board may require a third-party financial and technical analysis as part of the application of a municipality applying for approval of a tax increment financing district

pursuant to this section. The applicant municipality shall pay a fee to cover the actual cost of the analysis to be deposited in a special fund which shall be managed pursuant to subchapter 5 of chapter 7 of this title and be available to the board to pay the actual cost of the analysis.

(l) The state auditor of accounts shall review and audit all active tax increment financing districts every three years.

(m) Authority to adopt procedures. The economic progress council shall have the authority to adopt procedures to provide:

(1) An efficient process for accepting and deciding TIF district applications.

(2) For an approval process utilizing a master TIF district plan determination with partial determinations and consideration and approval of subsequent phases implementing the TIF district.

(3) For annual reporting by municipalities in accordance with 24 V.S.A. § 1901.

(4) For reapproval if no debt is incurred ten years after creation of the TIF district, in accordance with 24 V.S.A. § 1894(a)(2), which may include, at the discretion of the council, enforcement or waiver of the requirement to readdress all criteria for approval under subsection (h) of this section.

(5) A process for municipalities to file, and the council to consider, amendments that represent substantial changes to approved TIF plans and TIF financing plans, and which may require approval by the municipal legislative body.

Sec. 55a. TREATMENT OF TIF DISTRICTS FOR ACCOUNTING PURPOSES

The town of Milton may elect to treat the Husky and Catamount tax increment financing districts as a single district for purposes of the accounting and reporting requirements established under 32 V.S.A. § 5404a, 24 V.S.A. § 1901, and any rule adopted by the Vermont economic progress council governing tax increment financing districts, and such an election shall be conclusive for purposes of any state audit pursuant to 32 V.S.A. § 5404a(l).

Sec. 56. REPEAL

(a) 24 V.S.A. § 1896(b) (tax increments) is repealed.

(b) Sec. 2i of No. 184 of the Acts of the 2005 Adj. Sess. (2006) (tax increment financing districts; cap), as amended by Sec. 67 of No. 190 of the 2007 Adj. Sess. (2008), is repealed.

Sec. 57–59. [RESERVED]

* * * First and Second Class Liquor Licenses; Food Service * * *

Sec. 60. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST AND SECOND CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

* * *

(4)(A) A holder of a first class license may contract with another person to prepare and dispense food on the license holder's premises. ~~The first class license holder may have no more than 75 events each year under this subdivision. At least five days prior to each event under this subdivision, the first class license holder shall provide to the department of liquor control written notification that includes the name and address of the license holder, the date and time of the event and the name and address of the person who will provide the food.~~

(B) The first class license holder shall provide to the department written notification five business days prior to start of the contract the following information:

(i) the name and address of the license holder;

(ii) a signed copy of the contract;

(iii) the name and address of the person contracted to provide the food;

(iv) a copy of the person's license from the department of health for the facility in which food is served; and

(v) the person's rooms and meals tax certificate from the department of taxes.

(C) The holder of the first class license shall notify the department within five business days of the termination of the contract to prepare and dispense food. It is the responsibility of the first class licensee to control all conduct on the premises at all times, including the area in which the food is prepared and stored.

Sec. 61. [Deleted]

Secs. 62–63. [RESERVED]

Sec. 64. STUDY; PRIVATE ACTIVITY BONDS

(a) Findings.

(1) Due to changes in federal law governing underwriting and servicing student loans, the Vermont student assistance corporation has experienced a

substantial decrease in its ability to generate revenue and is currently downsizing its operation.

(2) As a result, the general assembly finds that VSAC's private activity bond allocation, which in recent years has exceeded $100 million, may be available for use as an economic development tool, and that the secretary of administration should review the process of allocation and the potential uses to which the state's allocation should be dedicated.

(b) On or before November 1, 2011, the secretary of administration, in collaboration with the office of the treasurer, shall review and report his or her findings to the house committee on commerce and economic development and to the senate committee on economic development, housing and general affairs concerning:

(1) the state's current process for allocation of private activity bond capacity, including whether the process should be modified to increase participation by the public and interested parties; and

(2) a cost-benefit analysis of one or more projects that may be suitable for private activity bond funding.

* * * Southeast Vermont Economic Development Strategy * * *

Sec. 65. SOUTHEAST VERMONT ECONOMIC DEVELOPMENT STRATEGY

The general assembly finds:

(1) In light of the scheduled closure of the Vermont Yankee nuclear facility in March 2012, Windham County will experience dramatic regional economic dislocation and will require additional support beyond background economic development programs.

(2) Windham County is currently undertaking an economic development planning process, the Southeast Vermont Economic Development Strategy (SeVEDS), the purpose of which is to prepare for the economic shift that will occur upon closure of Vermont Yankee. The process is now funded by Fairpoint Communications, but that funding will expire prior to completion of the process.

(3) The general assembly therefore finds it appropriate to provide funding to support the completion of the SeVEDS and to support workforce development and other activities that will assist Windham County in addressing the adverse economic consequences of the closure of Vermont Yankee, with particular emphasis on supporting Vermont Yankee employees and their families in securing new employment in Windham County.

Sec. 66-69. [Deleted]

* * * State Contracting; Net Costs of Contracting * * *

Sec. 70. FINDINGS: NET COSTS OF GOVERNMENT CONTRACTING

The general assembly finds:

(1) The state of Vermont is a significant purchaser of goods and services. As a result, the purchasing policies of the state of Vermont both influence the practices of vendors and have a fiscal impact on the state.

(2) Although multiple factors are considered in the procurement process, Vermont often selects the lowest bids for goods and services contracts and does not consistently account for the true economic costs of procurement from out-of-state providers relative to local and socially responsible providers.

(3) This policy fails to account for the fact that procurement decisions based on a bid price alone do not necessarily account for the total fiscal impact to the state of the bid award. Among the fiscal impacts to the state inherent in bid proposals are: the amount of wages paid to Vermont resident employees, the local spending effect of earned wages and profits in the Vermont economy by Vermont residents, revenue effects of purchasing of goods and services from other Vermont businesses in support of the primary vendor's submitting the bid, the possible reduction of Vermont unemployment, and the possible reduction in public assistance programs that result from earned wages.

(4) In recognition of the total fiscal impacts of state procurement practices, new procurement policies are required to ensure that the state of Vermont makes sound financial decisions that reflect the whole cost of contracts.

Sec. 71. STUDY; NET COST OF GOVERNMENT CONTRACTING; ECONOMETRIC MODELING

(a) The secretary of administration shall conduct a study on the net economic costs and benefits of government contracting and how the state may most effectively increase purchasing of in-state products and services.

(b) As a component of the study, the secretary shall investigate the development of an econometric model, based on or similar to the REMI model currently used by the executive and legislative economists, to allow state agencies and departments to evaluate the net costs and economic impacts of government contracts for goods and services. The secretary may, in his or her discretion, contract for the development of an econometric model that would:

(1) consider the net fiscal impact to the state of all significant elements of bids, including the level of local employment, wages and benefits, source of goods, and domicile of bidder;

(2) be designed to be easily updated from year to year; and

(3) be designed such that state employees administering bid processes can easily utilize the model in an expedient fashion.

(c) On or before January 15, 2012, the secretary shall submit a report of his or her findings to the senate committees on finance, on economic development, housing and general affairs, and on government operations, and to the house committees on commerce and economic development and on government operations.

Sec. 72. 29 V.S.A. § 909 is added to read:

§ 909. STATE PURCHASE OF FOOD AND AGRICULTURAL PRODUCTS

(a) When procuring food and agricultural products for the state, its agencies, departments, instrumentalities, and institutions, the commissioner of buildings and general services shall consider the interests of the state relating to the proximity of the supplier and the costs of transportation, and relating to the economy of the state and the need to maintain and create jobs in the state.

(b) When making purchases pursuant to this section, the secretary of administration, the commissioner of buildings and general services, and any state-funded institutions shall, other considerations being equal and considering the results of any econometric analysis conducted, purchase products grown or produced in Vermont when available.

Sec. 73. REPEAL

6 V.S.A. § 4601 (purchase of Vermont agricultural products) is repealed.

Sec. 74–99. [RESERVED]

Sec. 76. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(32) "Art gallery or bookstore permit": a permit granted by the liquor control board permitting an art gallery or bookstore to conduct an event at which malt or vinous beverages or both are served by the glass to the public, provided that the event is approved by the local licensing authority. A permit

holder may purchase malt or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the department in a form required by the department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(22) of this title.

Sec. 77. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(22) For an art gallery or bookstore permit, $15.00.

* * *

Sec. 85. 9 V.S.A. § 2466 is amended to read:

§ 2466. GOODS AND SERVICES APPEARING ON TELEPHONE BILL

(a) ~~No~~ Except as provided in subsection (f) of this section, a seller shall not bill a consumer for goods or services that will appear as a charge on the person's ~~local telephone bill without the consumer's express authorization~~ bill for telephone service provided by any local exchange carrier.

(b) ~~No later than the tenth business day after a seller has entered into a contract or other agreement with a consumer to sell or lease or otherwise provide for consideration goods or services that will appear as a charge on the consumer's local telephone bill, the seller shall send, or cause to be sent, to the consumer, by first-class mail, postage prepaid, a notice of the contract or agreement.~~

~~(c) The notice shall clearly and conspicuously disclose:~~

~~(1) The nature of the goods or services to be provided;~~

~~(2) The cost of the goods or services;~~

~~(3) Information on how the consumer may cancel the contract or agreement;~~

~~(4) The consumer assistance address and telephone number specified by the attorney general;~~

~~(5) That the charges for the goods or services may appear on the consumer's local telephone bill; and~~

~~(6) Such other information as the attorney general may prescribe by rule.~~

~~(d) The notice shall be a separate document sent for the sole purpose of providing to the consumer the information required by subsection (c) of this section. The notice shall not be combined with any sweepstakes offer or other inducement to purchase goods or services.~~

~~(e) The sending of the notice required by this section is not a defense to a claim that a consumer did not consent to enter into the contract or agreement.~~

~~(f)~~ No person shall arrange on behalf of a seller of goods or services, directly or through an intermediary, with a local exchange carrier, to bill a consumer for goods or services unless the seller complies with this section. This prohibition applies, but is not limited, to persons who aggregate consumer billings for a seller and to persons who serve as a clearinghouse for aggregated billings.

~~(g)~~(c) Failure to comply with this section is an unfair and deceptive act and practice in commerce under this chapter.

~~(h)~~(d) The attorney general may make rules and regulations to carry out the purposes of this section.

~~(i)~~(e) Nothing in this section limits the liability of any person under existing statutory or common law.

~~(j)~~(f)(1) This section shall apply to billing aggregators described in 30 V.S.A. § 231a, but shall ~~does~~ not apply to: ~~sellers regulated by~~

(A) billing for goods or services marketed or sold by persons subject to the jurisdiction of the Vermont public service board under ~~Title 30, other than section 231a of Title 30~~ 30 V.S.A. § 203;

(B) billing for direct dial or dial around services initiated from the consumer's telephone; or

(C) operator-assisted telephone calls, collect calls, or telephone services provided to facilitate communication to or from correctional center inmates.

(2) Nothing in this section affects any rule issued by the Vermont public service board.

* * * Appropriations and Allocations * * *

Sec. 100. APPROPRIATIONS AND ALLOCATIONS

(a) The following funds are appropriated in Sec. B 1104 of H.441 of 2011 in fiscal year 2012:

(1) $25,000.00 to the department of labor for the long-term unemployed hiring incentive in Sec. 7 of this act.

(2) $475,000.00 to the agency of agriculture, food and markets as follows:

(A) $100,000.00 for the good agricultural practices grant program in Sec. 40 of this act.

(B) $25,000.00 for the skilled meat cutter apprenticeship program in Sec. 41 of this act.

(C) $125,000.00 for the local foods coordinator and the local foods grant program in Sec. 42 of this act, not more than $75,000.00 of which funds shall be used for the total annual compensation of the coordinator, and not less than $50,000.00 of which funds shall be used for the performance of the local foods coordinator's duties under this act and for competitive matching grants from the agency to Vermont producers, unless in the secretary's discretion it shall be necessary to increase the amount of total compensation of the local foods coordinator in order to retain a highly qualified candidate for the position.

(D) $100,000.00 for implementation of the farm-to-plate investment program in Sec. 43 of this act.

(E) $75,000.00 for competitive matching grants for the farm-to-school program established in 6 V.S.A. § 4721.

(F) $50,000.00 for competitive matching grants to increase slaughterhouse and meat processing facility capacity as authorized in Sec. 34 of this act.

(3) $25,000.00 to the agency of commerce and community development for a matching grant to the Vermont employee ownership center.

(b) The following Next Generation funds are appropriated in Sec. B 1100 of H.441 of 2011 in fiscal year 2012:

(1) $350,000.00 to the department of labor for the Vermont career internship program developed in Secs. 11–13 of this act.

(2) $30,000.00 to the agency of agriculture, food and markets for the Vermont large animal veterinarian educational loan repayment fund created in Sec. 39 of this act.

(3) $25,000.00 to the agency of commerce and community development to fund the completion of the southeast Vermont economic development strategy, workforce development, and other activities pursuant to Sec. 65 of this act.

(c) Of the funds appropriated to the agency of commerce and community development in H.441 of 2011, $100,000.00 shall be allocated for the office of creative economy created in Secs. 15–16 of this act.

(d) Of the funds appropriated to the department of labor in H.441 of 2011:

(1) $75,000.00 shall be allocated to fund performance grants for regional workforce development activities pursuant to Sec. 14a of this act.

(2) $23,895.00 shall be allocated to the department of labor for the Vermont career internship program developed in Secs. 11–13 of this act.

(3) Up to $40,000.00 shall be allocated for transfer to the secretary of administration for the work of the executive economist, and to reimburse the joint fiscal office for the work of the legislative economist, to conduct a study on government contracting, and to develop an econometric model for the evaluation of net costs of government contracts pursuant to Sec. 71 of this act.

Sec. 101. REPORTING

On or before January 15, 2012, the agency of commerce and community development shall coordinate with each agency, department, or outside entity charged with oversight or implementation of a program or policy change in this act and submit in its annual report to the house committees on commerce and economic development and on agriculture, and to the senate committees on economic development, housing and general affairs and on agriculture:

(1) a performance analysis of each program or policy change following passage of this act;

(2) an analysis of the number of private sector jobs created as a result of each program or policy in this act that has a direct financial impact to the state;

(3) an analysis of each program or policy in this act and the proportion of opportunities distributed to each gender; and

(4) recommendations for future actions in light of performance relative to the intended outcomes for each program or policy change.

Sec. 102. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 8a (executive director of workforce development council), 55, and 56 (tax increment financing) shall take effect July 1, 2011.

(2) Secs. 51, 52, 53, and 54 (tax increment financing districts) and Sec. 55a (accounting of Milton TIFs) shall take effect upon passage and shall apply retroactively to July 1, 2008.

(3) Notwithstanding any other provision of law to the contrary, no program funds shall be expended or allocated prior to July 1, 2011.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Botzow of Pownal** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Botzow of Pownal
Rep. Marcotte of Coventry
Rep. Condon of Colchester

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Members Appointed to Committees

The Speaker appointed members to the following committees:

Scenery Preservation Council
Rep. Evans of Essex

Government Accountability Committee
Rep. Emmons of Springfield

Proposal of Amendment Agreed to; Bill Read Third Time and Passed in Concurrence with Proposal of Amendment

S. 100

Senate bill, entitled

An act relating to making miscellaneous amendments to education laws

Was taken up and pending third reading of the bill, **Rep. Gilbert of Fairfax** moved to amend the House proposal of amendment to the Senate proposal of amendment as follows:

By striking Sec. 39 in its entirety and inserting in lieu thereof three new sections to be Secs. 39 through 41 to read:

Sec. 39. FINDINGS

The general assembly finds:

(1) A concussion is a disturbance to brain function that can range from mild to severe and can disrupt the way the brain normally works.

(2) A concussion is caused by a blow to or motion of the head or body that causes the brain to move rapidly inside the skull.

(3) A concussion can occur with or without loss of consciousness, but most concussions occur without loss of consciousness.

(4) The risks of catastrophic injuries or death are significant when a concussion or other head injury is not properly evaluated and managed.

(5) Concussions can occur during any organized or unorganized sport or recreational activity and can result from a fall or from a person colliding with one or more other people, with the ground, or with other obstacles.

(6) The Centers for Disease Control and Prevention estimates that as many as 3,900,000 sports-related and recreation-related concussions occur in the United States each year.

(7) Concussions are one of the most commonly reported injuries in children and adolescents who participate in athletic and recreational activities.

(8) Continuing to participate in athletic and recreational activities with a concussion or symptoms of a head injury causes children and adolescents to be vulnerable to greater injury or even death.

(9) Despite the existence of recognized return-to-play standards for concussions and other head injuries, some children and adolescents in Vermont with a concussion or symptoms of a head injury are prematurely permitted to participate in athletic and recreational activities, resulting in actual or potential physical injury or death.

Sec. 40. 16 V.S.A. chapter 31, subchapter 3 is added to read:

Subchapter 3. Health and Safety Generally

§ 1431. CONCUSSIONS AND OTHER HEAD INJURIES

(a) Definitions. For purposes of this subchapter:

(1) "School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(2) "Coach" means a person who instructs or trains students on a school athletic team.

(3) "Youth athlete" means an elementary or secondary student who is a member of a school athletic team.

(4) "Licensed health care provider" means:

(A) a physician licensed pursuant to chapter 23 or 33 of Title 26;

(B) an advanced practice registered nurse licensed pursuant to chapter 28 of Title 26;

(C) a physician's assistant licensed pursuant to chapter 31 of Title 26;

(D) an athletic trainer licensed pursuant to chapter 83 of Title 26; or

(E) a physical therapist licensed pursuant to chapter 38 of Title 26.

(b) Guidelines and other information. The commissioner of education or designee, assisted by members of the Vermont Principals' Association and the Vermont School Boards Association selected by those associations, shall develop statewide guidelines, forms, and other materials, and update them when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury; and

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the state, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training no less frequently than every two years on how to recognize the symptoms of a concussion or other head injury; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school.

(d) Participation in athletic activity.

(1) A coach shall not permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach has reason to believe that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) A coach shall not permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this subsection to

train or compete with a school athletic team until the athlete has been examined by and received written permission to participate in athletic activities from a licensed health care provider trained in the evaluation and management of concussions and other head injuries.

Sec. 41. EFFECTIVE DATE; IMPLEMENTATION

This act shall take effect on passage, provided that:

(1) Section 3 of this act shall be fully implemented by July 1, 2013, subject to the provisions of existing contracts;

(2) the guidelines, forms, and other materials required by Sec. 40 of this act, 16 V.S.A. § 1431(b), shall be developed and published on the websites of the Vermont Principals' Association and the department of education no later than July 1, 2011; and

(3) the requirements of Sec. 40 of this act, 16 V.S.A. § 1431(c) (notice and training) and (d) (participation), shall be in effect beginning in the autumn 2011 sports season.

Which was agreed to.

Pending third reading of the bill, **Rep. Crawford of Burke** moved to amend the House proposal of amendment to the Senate proposal of amendment as follows:

By striking out Secs. 32 and 33 in their entirety and inserting in lieu thereof Secs. 32 and 33 to read:

Sec. 32. 16 V.S.A. § 562 is amended to read:

§ 562. POWERS OF ELECTORATE

At a school district meeting, the electorate:

* * *

(11) ~~[Repealed.]~~ May grant general authority to the school board, at the request of the board, to incur debt at any time within the subsequent five years to finance the cost of school-building energy improvements not to exceed $200,000.00 per building in any three-year period and payable over a maximum term coextensive with the useful life of the financed improvements, but not to exceed ten years, provided that the avoided costs attributable to the financed improvements exceed the annual payment of principal and interest of the indebtedness. No indebtedness shall be incurred under this subdivision unless the entity appointed as an energy efficiency utility under 30 V.S.A. § 209(d)(2), an independent licensed engineer, or an independent licensed architect has certified to the district the cost of the improvements to be financed, the avoided costs attributable to the improvements, and the adequacy

of debt service coverage from the avoided costs over the term of the proposed indebtedness.

Sec. 33. [Deleted.]

Which was agreed to.

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

Bill Read Second Time; Consideration Interrupted by Recess

H. 237

Rep. Clarkson of Woodstock, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to the use value program

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest land~~ forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said tax shall be at the rate of 20 percent of the full fair market value of the changed land determined without regard to the use value appraisal; or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such~~ The tax shall be expressed as a percentage of the full fair market value of the changed land determined without regard to the use value appraisal. If the property has been continuously enrolled by the same owner for fewer than 12 years, the tax rate shall be ten percent. If the property has been continuously enrolled by the same owner for 12 to 20 years, the tax rate shall be eight percent. If the property has been continuously enrolled by the same owner for over 20 years, the tax rate shall be five percent. A change in ownership that adds or subtracts a family member or that transfers the property to a family member who is an heir does not interrupt the counting of continuously enrolled years; however, a transfer in whole or in part to people who are not family members, or to a legal entity whose members are not all family members, does interrupt the counting of continuously enrolled years. For purposes of this subsection, "family

member" means a spouse, former spouse, child, parent, grandparent, grandchild, sibling, aunt, uncle, nephew or niece by blood, marriage, or adoption. For purposes of the land use change tax, fair market value shall be determined as of the date the land is ~~no longer eligible for use value appraisal~~ developed or at an earlier date, if the owner petitions for the determination pursuant to subsection (c) of this section and pays the tax within 30 days of notification from the local assessing official. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

(b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall ~~petition for a determination of the fair market value of the land at the time of the withdrawal~~ notify the director, who shall in turn notify the local assessing official. In the alternative, if the director determines that development has occurred, the director shall notify the local assessing official of his or her determination. Thereafter, land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title and subsection 3756(d) of this title, according to the appraisal model and land schedule of the municipality. ~~Said determination of the fair market value shall be used in calculating the amount of the land use change tax that shall be due when and if the development of the land occurs.~~

(c) ~~The~~ For the purposes of the land use change tax, the determination of the fair market value of the land ~~as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal,~~ shall be made by the ~~director~~ local assessing officials in accordance with the provisions of subsection (b) of this section and divided by the municipality's most recent common level of appraisal as determined by the director. The determination shall be made within 30 days after the date that the director notifies the local assessing officials that the owner ~~or assessing officials petition for the determination and shall be effective on the date of dispatch to the owner~~ has petitioned for withdrawal from the program or that the director has determined that development has occurred. The local assessing officials shall notify the owner and the director of its determination, and the provisions for appeal relating to property tax assessments in chapter 131 shall apply.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the commissioner ~~for deposit into the general fund~~ who shall deposit one-half of

the tax paid into the general fund and remit one-half of the tax paid to the municipality in which the land is located. The commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the commissioner shall furnish the owner with one copy, shall retain one copy and shall forward one copy to the local assessing officials ~~and~~, one copy to the register of deeds of the municipality in which the land is located, and one copy to the secretary of agriculture, food and markets if the land is agricultural land, and in all other cases to the commissioner of forests, parks and recreation. ~~Thereafter, the land which has been developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.~~

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director, local assessing officials, the secretary of agriculture, food and markets if the land is agricultural land, and in all other cases the commissioner of forests, parks and recreation of:

* * *

Sec. 2. 32 V.S.A. § 3756(d) is amended to read:

(d) The assessing officials shall appraise qualifying agricultural and managed forest land and farm buildings at use value appraisal as defined in subdivision 3752(12) of this title. If the land to be appraised is a portion of a parcel, the assessing officials shall:

(1) determine the contributory value of each portion such that the fair market value of the total parcel is comparable with other similar parcels in the municipality; and

(2) notify the landowner according to the procedures for notification of change of appraisal. The portion of the parcel that is not to be appraised at use value shall be appraised at its fair market value determined in this subsection.

Sec. 3. 32 V.S.A. § 3752(12) is amended to read:

(12) "Use value appraisal" means, with respect to land, the price per acre which the land would command if it were required to remain henceforth in agriculture or forest use, as determined in accordance with the terms and provisions of this subchapter. With respect to farm buildings, "use value appraisal" means zero percent of fair market value. ~~The director shall annually provide the assessing officials with a list of farm sales, including the town in which the farm is located, the acreage, sales price, and date of sale.~~

Sec. 4. 32 V.S.A. § 3756(i) is amended to read:

(i) The director shall remove from use value appraisal an entire parcel of managed forest land and notify the owner in accordance with the procedure in subsection (b) of this section when the department of forests, parks and recreation has not received a required management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

Sec. 5. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

(a) Given the critical importance of Vermont's use value appraisal program to the state's agricultural and forest industries as well as to the state's rural character and quality of life and in response to continuing fiscal challenges, the general assembly finds that multiple strategies are needed to strengthen the effectiveness, efficiency, and fairness of the use value appraisal program and to find additional revenue generation or cost savings consistent with the program's policy objectives.

(b) There is created a current use study committee to examine the existing formula for municipal reimbursement payments ("hold harmless payments") to determine if the payments are equitable and appropriate in light of the reallocation of land use change tax payments under this act and, if not, to propose an alternative formula. The committee shall issue a report no later than January 15, 2012, and the report should be submitted to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance. The members of the study committee shall be:

(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before September 1, 2011;

(2) The secretary of the agency of agriculture, food and markets or designee;

(3) The commissioner of the department of forest, parks and recreation or designee;

(4) The executive director of the Vermont Assessors and Listers Association or designee;

(5) The executive director of the Vermont housing and conservation board or designee;

(6) Two representatives of the Vermont League of Cities and Towns, one from a rural community and one from an urban community, appointed by its board of directors;

(7) A member of the house appointed by the speaker of the house;

(8) A member of the senate appointed by the committee on committees;

(9) A member of the public appointed by the governor who shall be a land owner enrolled in the use value appraisal program.

(c) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010, unless otherwise compensated.

(d) The general assembly has identified potential areas of additional legislative action. These issues include:

(1) The extent and degree of over-assessment of enrolled or conserved land, including land permanently protected by conservation easements, and ensuring a consistent approach to assessment from town to town;

(2) The need to create incentives for landowners who keep enrolled land open for public recreation;

(3) the eligibility of agricultural parcels of fewer than 25 acres and the feasibility of developing productivity standards for such parcels;

(4) Methods by which the state can enhance the long-term financial sustainability of the program without damaging its long-term effectiveness in maintaining working farms, forests, and open space, including the feasibility of using a tiered current use tax for lands devoted to different levels of production or conservation and availability for public recreational access;

(5) The identification and analysis of lands removed from the program over the past ten years and the subsequent use of those parcels;

(6) The application of the land use change tax to timber harvesting operations after the approved forest management plan has expired and the land is no longer enrolled in use value appraisal;

(7) The effect of allowing an owner to relocate an undeveloped withdrawn site of two acres or less once within an enrolled parcel without incurring the land use change tax, provided there is no net reduction in the area of enrolled land;

(8) Creating a system of oversight for agricultural land that is comparable and consistent with the oversight of forestland;

(9) Whether the land use change tax is a tax or a penalty, and if it is a

tax, whether additional penalties are appropriate for land leaving the program or for land enrolled in the program that is not, in fact, qualified for enrollment.

(e) Individuals and organizations who are interested in the issues listed in subsection (d) are encouraged to create working groups to study these issues and develop potential solutions. They are further encouraged to submit their findings and recommendations to the general assembly on or before December 1, 2011 and any additional findings and recommendations on or before December 1, 2012. The reports should be submitted to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance.

Sec. 6. USE VALUE APPRAISAL "EASY-OUT"

Notwithstanding any other provision of law, an owner of property enrolled in use value appraisal under chapter 124 of Title 32 as of the passage of this act who elects to discontinue enrollment of the entire parcel may be relieved of the first $100,000.00 of land use change tax imposed pursuant to section 3757 of that title; provided that if the property owner does elect to discontinue enrollment and be relieved of the first $100,000.00 of land use change tax, the owner shall pay the full property tax, based upon the property's full fair market value, for the 2011 assessment, and no state reimbursement shall be paid for that land. No property owner shall be relieved of more than $100,000.00 in land use change tax under this provision. An election to discontinue enrollment under this provision is effective only if made in writing to the director of property valuation and review on or before October 1, 2011; and no owner who elects to discontinue enrollment under this section, or any successor owner, shall reenroll less than the entire withdrawn parcel in the succeeding five years. If the property owner withdraws less than the entire parcel, the provisions of this section do not apply.

Sec. 7. LIMITATION ON EASY-OUT

The "easy-out" provided for in Sec. 6 of this act shall not be available for any parcel that has been developed, as that term is defined in 32 V.S.A. § 3752(5), prior to passage of this act.

Sec. 8. EFFECTIVE DATE AND TRANSITION RULES

(a) Subject to Sec. 6 of this act, property withdrawn from the use value appraisal program on or before October 1, 2011, but not developed before that date shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 in effect at the time of withdrawal; and revenues from the land use change tax paid on any such property shall be paid to the commissioner for deposit into the general fund.

(b) Sec. 1 of this act shall take effect on November 2, 2011.

(c) All other sections of this act shall take effect on July 1, 2011.

Rep. Obrien of Richmond, for the committee in Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Ways and Means.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the report of the committees on Ways and Means and Appropriations be agreed to?

Recess

At one o'clock and fifty-five minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and forty-five minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed: Bill Amended and Third Reading Ordered

H. 237

Consideration resumed on House bill, entitled

An act relating to the use value program;

Pending the recurring question, Shall the report of the committees on Ways and Means and Appropriations be agreed to? **Rep. Clarkson of Woodstock** moved to amend the report of the committee on Ways and Means as follows:

In Sec. 8 (EFFECTIVE DATE AND TRANISTION RULES), in subdivision (b), by striking "November 2, 2011" and inserting in lieu thereof "October 2, 2011"

Which was agreed to.

Thereupon, the recommendation of proposal of amendment offered by the the committee on Ways and Means, as amended, was agreed to and third reading was ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 77

Rep. Fagan of Rutland City, for the committee on Fish, Wildlife & Water Resources, to which had been referred Senate bill, entitled

An act relating to water testing of private wells

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting thereof the following:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The U.S. Environmental Protection Agency and the Vermont department of health estimate that 40 percent of Vermont residents obtain drinking water from groundwater sources.

(2) Property owners currently are not required to test groundwater sources that are a potable water supply serving one single-family residence.

(3) In adults and especially in children, consumption of contaminated groundwater can cause serious health effects, such as digestive problems, kidney problems, blue baby syndrome, and brain damage.

(4) The state lacks a comprehensive database or map identifying where groundwater contamination is prevalent in the state.

(5) To help mitigate the potential health effects of consumption of contaminated groundwater, the state should require testing of all newly developed groundwater sources and should conduct education and outreach regarding the need for property owners to test the water quality of groundwater used in potable water supplies.

(6) The state should utilize tests of groundwater sources to construct a database and map of groundwater contamination in the state so that the department of health can recommend treatment options to property owners in certain parts of the state.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. TESTING OF NEW GROUNDWATER SOURCES

(a) As used in this section, "groundwater source" means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Prior to use of a new groundwater source as a potable water supply, where testing is not otherwise required, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) A water sample collected under this section shall be analyzed for, at a minimum: arsenic; lead; uranium; gross alpha radiation; total coliform

bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the agency by rule.

(d) The secretary, after consultation with the department of health, the wastewater and potable water supply technical advisory committee, the Vermont association of realtors, the Vermont home inspectors' association, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsection (b) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to conduct the test;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

Sec. 3. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The commissioner may certify a laboratory to perform the testing and monitoring required under 10 V.S.A. chapter 56, 10 V.S.A. § 1981, and the federal Safe Drinking Water Act if such laboratory meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent.

(b)(1) The commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction or condition of the certificate; or

(C) violated any statute, rule or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the board under section 128 of this title.

* * *

(f) In accrediting a laboratory to conduct testing under 10 V.S.A. § 1981, the commissioner shall require a laboratory accredited under this section to submit in an electronic format the results of groundwater analyses conducted pursuant to 10 V.S.A. § 1981 to the department of health and the agency of natural resources.

Sec. 4. 27 V.S.A. § 616 is added to read:

§ 616. GROUNDWATER SOURCE TESTING; DISCLOSURE OF EDUCATIONAL MATERIAL

(a) For purchase and sales agreements executed on or after January 1, 2012, the seller shall, within 72 hours of the execution of a purchase and sales agreement for a property with a potable water supply, as that term is defined 10 V.S.A. § 1972(6), that is not served by a public water system, as that term is defined in 10 V.S.A. § 1671(5), provide the buyer with informational materials developed by the department of health regarding:

(1) the potential health effects of the consumption of untreated groundwater; and

(2) the buyer's opportunity under the agreement to test the potable water supply.

(b) Noncompliance with this section shall not affect marketability of title.

Sec. 5. DEPARTMENT OF HEALTH; EDUCATION AND OUTREACH ON SAFE DRINKING WATER

The department of health, after consultation with the agency of natural resources, shall revise and update its education and outreach materials regarding the potential health effects of contaminants in groundwater sources of drinking water in order to improve citizen access to such materials and to increase awareness of the need to conduct testing of groundwater sources. In revising and updating its education and outreach materials, the department shall update the online safe water resource guide by incorporating the most current information on the health effects of contaminants, treatment of contaminants, and causes of contamination and by directly linking users to the department of health contaminant fact sheets.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (certification of laboratories), and 5 (department of health; education and outreach) of this act shall take effect upon passage.

(b) Sec. 2 (testing of new groundwater sources) of this act shall take effect upon passage, except that 10 V.S.A. § 1981(b) (the requirement to test new groundwater sources) shall take effect on January 1, 2013.

(c) Sec. 4 (disclosure of educational material) of this act shall take effect on January 1, 2012.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Fish, Wildlife & Water Resources agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 78

Rep. Shand of Weathersfield, for the committee on Commerce and Economic Development, to which had been referred Senate bill, entitled

An act relating to the advancement of cellular, broadband, and other technology infrastructure in Vermont

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 1 (purpose and findings), in subsection (b), by adding a new subdivision (3) to read as follows:

(3) Of the approximately $8,900,000.00 in state funds appropriated to the VTA for capital investments since its creation in 2007, approximately $6,400,000.00 has been awarded to fund various telecommunications projects in the state, and about $280,000.00 worth of those projects has been completed to date.

and by renumbering the remaining subdivisions to be numerically correct.

Second: In Sec. 1 (purpose and findings), in subsection (b), in subdivision (5), after the words "promises near universal coverage in" by adding "large areas of"

Third: In Sec. 1 (purpose and findings), in subsection (b), by striking out subdivision (11) in its entirety and inserting in lieu thereof the following:

(11) In light of the infusion of federal dollars to build out telecommunications infrastructure in Vermont, the VTA, in coordination with

the secretary of administration, needs to reexamine on a continuing basis its role in providing funds and its support for cellular and broadband deployment.

Fourth: In Sec. 1 (purpose and findings), in subsection (b), in subdivision (13), by striking out the second sentence in its entirety

Fifth: In Sec. 1 (purpose and findings), in subsection (b), by striking out subdivision (14) and inserting in lieu thereof:

(14) It is also imperative that Vermont pursue telecommunications infrastructure deployment in a manner consistent with the state's iconic beauty and long-standing principles of historic and environmental stewardship. Notably, Vermont is ranked sixth in the world for "destination stewardship" by the National Geographic Society's Center for Sustainable Destination, as published in the November–December 2009 issue of National Geographic Traveler magazine. Provisions should be enacted that are specifically intended to assure that telecommunications facilities along Vermont's scenic highways are built consistently with this goal.

and by renumbering all subdivisions in subsection (b) to be numerically correct

Sixth: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for communications facilities), in subsection (c) (findings), by striking out subdivision (1) and inserting in lieu thereof:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public's use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D) (floodways) and (a)(8) (aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

(A) The board may determine, pursuant to the procedures described in subdivision (j)(2)(A) of this section, that a petition raises a significant issue with respect to any criterion of this subdivision; and

(B) A telecommunications facility of limited size and scope shall comply, at a minimum, with the requirements of the Low Risk Site Handbook for Erosion Prevention and Sediment Control issued by the department of environmental conservation, regardless of any provisions in that handbook that limit its applicability.

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

Sec. 3b. 3 V.S.A. § 2809 is amended to read:

§ 2809. REIMBURSEMENT OF AGENCY COSTS

* * *

(g) Concerning an application for a permit to discharge stormwater runoff from a telecommunications facility as defined in 30 V.S.A. § 248a that is filed before July 1, 2014:

(1) Under subdivision (a)(1) of this section, the agency shall not require an applicant to pay more than $10,000.00 with respect to a facility.

(2) The provisions of subsection (c) (mandatory meeting) of this section shall not apply.

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

Sec. 3c. Sec. F33 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. F33. ANR REPORT ON ANTI-DEGRADATION IMPLEMENTATION RULES

On or after January 15, 2011, and at ~~least 30 days prior to prefiling~~ the same time that the secretary of natural resources prefiles draft anti-degradation policy implementation rules with the interagency committee on administrative rules under 3 V.S.A. § 837, the secretary of natural resources shall submit for review a copy of the draft anti-degradation policy implementation rules to the senate committee on natural resources and energy and the house committee on fish, wildlife and water resources. At the time of such prefiling, if the general assembly is not in session, then the secretary shall comply with this section by submitting the draft rules to the chairs of the senate committee on natural resources and energy and the house committee on fish, wildlife and water resources.

Ninth: In Sec. 10, 30 V.S.A. § 8092 (nonexclusive use of fiber on electric utility poles), in subsection (h) (transmission poles), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) Notwithstanding any law or rule to the contrary, a company may not enter into a contract with a communications service provider that provides exclusive access to its company-attached and company-maintained fiber-optic facilities by including terms that expressly prohibit any other communications service provider from leasing or purchasing unused strands of fiber. The terms

and conditions of any contract entered into under this section shall include a provision specifying that, if a communications service provider leases fiber-optic capacity but fails to use that capacity within one year from the date the contract is entered into, the communications service provider shall report such non-use to the department of public service. The commissioner of public service shall determine if such non-use constitutes anti-competitive behavior that unreasonably precludes another communications service provider from leasing fiber-optic capacity. If the commissioner determines that such non-use constitutes anti-competitive behavior, he or she shall commence an investigation with the board of public service. The board is authorized to impose a remedy it deems appropriate under the circumstances. Such remedy may include termination of the lease with respect to the unused portion of the leased fiber-optic capacity.

Tenth: In Sec. 10, 30 V.S.A. § 8092 (nonexclusive use of fiber on electric utility poles), by striking out subsection (j) (distribution poles) in its entirety and inserting in lieu thereof the following:

(j) A company having electric transmission or distribution structures carrying voltages of 110 kV or lower may not enter into a contract with a communications service provider that provides exclusive access to its company-attached and company-maintained fiber-optic facilities by including terms that expressly prohibit any other communications service provider from leasing or purchasing unused strands of fiber. The terms and conditions of any contract entered into under this section shall include a provision specifying that, if a communications service provider leases fiber-optic capacity but fails to use that capacity within one year from the date the contract is entered into, the communications service provider shall report such non-use to the department of public service. The commissioner of public service shall determine if such non-use constitutes anti-competitive behavior that unreasonably precludes another communications service provider from leasing fiber-optic capacity. If the commissioner determines that such non-use constitutes anti-competitive behavior, he or she shall commence an investigation with the board of public service. The board is authorized to impose a remedy it deems appropriate under the circumstances. Such remedy may include termination of the lease with respect to the unused portion of the leased fiber-optic capacity.

Eleventh: In Sec. 11 (study on regulatory exemption), in subsection (a), in the first sentence, after the words "certain telecommunications carriers" by adding the words "not currently eligible"

Twelfth: In Sec. 12, 30 V.S.A. § 227e (leasing or licensing of state land for telecommunications facilities), in subsection (b), in subdivision (1), after the

words "on the website maintained by the agency of administration" by adding the words ", with appropriate hyperlinks to that website on all relevant, state-maintained websites"

Thirteenth: In Sec. 14, 24 V.S.A. § 4413 (limitations on municipal bylaws), in subdivision (h)(1), in the first sentence, before "bylaw" by striking "A" and inserting in lieu thereof: "Except as necessary to ensure compliance with the national flood insurance program, a"

Fourteenth: In Sec. 14b, 3 V.S.A. § 2222b (telecommunications coordination and planning), in subsection (c) (deployment tracking), in subdivision (1), after the words "Not later than 30 days" by striking out the word "of" and inserting in lieu thereof "after"

Fifteenth: In Sec. 14b, 3 V.S.A. § 2222b (telecommunications coordination and planning), in subsection (c) (deployment tracking), in subdivision (5), at the end of the subdivision, by adding "Alternatively, entities that voluntarily provide information requested pursuant to this subdivision may select a third party to be the recipient of such information. That third party may aggregate information provided by the entities, but shall not disclose the information it has received to any person, including the secretary. The third party may only disclose the aggregated information to the secretary."

Sixteenth: By striking out Sec. 14c in its entirety and inserting in lieu thereof a new Sec. 14c to read as follows:

Sec. 14c. Rule 5(d)(2) of the Vermont Rules of Environmental Court Proceedings is amended to read:

(2) *Claims and Challenges of Party Status in an Appeal from a Final Decision.* An appellant who claims party status as a person aggrieved pursuant to 6 V.S.A. § 4855 or 10 V.S.A. § 8504(a) and is not denied that status by 10 V.S.A. § 8504(d)(1), or an appellant who claims party status as an interested person pursuant to 10 V.S.A. § 8504(b)(1), will be automatically accorded that status when the notice of appeal is filed unless the court otherwise determines on motion to dismiss a party. An appellant who claims party status under 10 V.S.A. § 8504(b)(2), (d)(2), or (e)(2) and who has not sought interlocutory relief pursuant to paragraph (1) of this subdivision must assert that claim by motion filed ~~with the notice of appeal~~ not later than the deadline for filing a statement of questions on appeal. Any other person who appears as provided in subdivision (c) of this rule will be accorded party status unless the court otherwise determines on its own motion, on motion to dismiss a party, or on a motion to intervene.

Seventeenth: By adding a new section to be numbered Sec. 14e to read as follows:

Sec. 14e. 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:

* * *

(8)(A) Communications antennae and facilities. Except to the extent bylaws protect historic landmarks and structures listed on the state or national register of historic places, no permit shall be required for placement of ~~antennae~~ an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the ~~aggregate~~ area of the largest ~~faces~~ face of the ~~antennae~~ antenna is not more than ~~eight~~ 15 square feet, and if the ~~antennae~~ antenna and any mast support ~~does~~ do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

* * *

Eighteenth: In Sec. 15, 30 V.S.A. § 8060 (VTA findings and purpose), in subsection (b), by striking out subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) the ~~ubiquitous~~ universal availability of mobile telecommunication services, including voice and high-speed data ~~throughout the state~~ along roadways and near universal availability statewide by the end of the year ~~2010~~ 2013.

Nineteenth: In Sec. 16, 30 V.S.A. § 8061 (establishment and organization of the VTA), in subsection (c), after the words "The governor" by striking out ", the speaker of the house, and the president pro tempore of the senate shall jointly" and inserting in lieu thereof the word "shall"

Twentieth: In Sec. 16, 30 V.S.A. § 8061 (establishment and organization of the VTA), in subsection (d), by striking out the last sentence in its entirety and inserting in lieu thereof the following: "Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former board member shall not advocate before the authority on behalf of an enterprise that provides broadband or cellular service."

Twenty-first: By striking out Sec. 16a (VTA board transitional provision) in its entirety and inserting in lieu thereof the following:

Sec. 16a. VTA BOARD; REORGANIZATION

Upon the effective date of this act, the terms of office of the existing members of the board of directors of the Vermont telecommunications authority shall terminate, but members shall continue to serve until new members for the term commencing in 2011 are appointed as provided in this act.

Twenty-second: In Sec. 17, 30 V.S.A. § 8062 (VTA powers and duties), in subsection (a), after the new subdivision (2) (inventory of federal radio frequency licenses), by adding a new subdivision (3) to read as follows:

(3) to the extent not inconsistent with the goals of this chapter, to utilize existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

and by renumbering the remaining subdivisions to be numerically correct

Twenty-third: In Sec. 17, 30 V.S.A. § 8062 (VTA powers and duties), in subsection (b), in subdivision (1), after the word "unserved" in both instances by inserting the words "or underserved"

Twenty-fourth: In Sec. 18, 30 V.S.A. § 8063 (interagency cooperation), in the new subsection (b), after the words "general assembly" by inserting the words "or, if the general assembly is not in session, without prior notice to the chairs of the house committee on commerce and economic development and the senate committees on finance and on economic development, housing and general affairs and approval of the joint fiscal committee, in consultation with the legislative chairs already referenced in this subsection"

Twenty-fifth: In Sec. 19, 30 V.S.A. § 8071 (VTA quarterly and annual reports), in subsection (c), in subdivision (6), after the words "existing business providers" by striking out the rest of the sentence until the period

Twenty-sixth: By striking out Sec. 23 (Hughesnet recovery act program) in its entirety and inserting in lieu thereof the following:

Sec. 23. SATELLITE RECOVERY ACT PROGRAM

(a) Pursuant to the broadband initiatives program of the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, companies such as Hughes Network Systems, LLC (Hughes) were selected by the Rural Utilities Service (RUS) of the United States Department of Agriculture as nationwide providers under RUS's satellite grant program. Under the program, Hughes was awarded a $58,700,000.00 grant in 2010. The grant allows Hughes to provide high speed Internet service by satellite to over 105,000 rural residences by eliminating the cost of hardware and installation and by reducing the price of monthly service plans.

(b) The satellite Internet service provided by satellite grant recipients may provide a good opportunity to bring broadband service to areas that otherwise might not be served and for such time until broadband service meeting or exceeding the minimum technical service characteristics under 30 V.S.A. § 8077 is available.

(c) Notwithstanding the minimum technical service characteristics under 30 V.S.A. § 8077, the commissioner of public service and the director of the Vermont telecommunications authority shall make known the availability of satellite recovery act programs and reference them in relevant publications listing broadband providers in Vermont.

(d) Notwithstanding the provisions of this section, an area shall not be considered "served" for purposes of state broadband policy and planning if it is only served by a satellite provider.

Twenty-seventh: In Sec. 24a, 3 V.S.A. § 2222c (report on broadband and wireless deployment), in subsection (a), by striking out the word "chapter" and inserting in lieu thereof "section"

Twenty-eighth: In Sec. 24a, 3 V.S.A. § 2222c (report on broadband and wireless deployment), in subsection (b), in subdivision (1)(B), by striking out "mpbs" and inserting in lieu thereof "Mbps"

Twenty-ninth: In Sec. 24a, 3V.S.A. § 2222c (report on broadband and wireless deployment), in subsection (b), in subdivision (1)(A) and in subdivisions (2)(A) and (B), by striking out each instance of "mbps" and inserting in lieu thereof "Mbps"

Thirtieth: In Sec. 24b, 30 V.S.A. § 202c (state telecommunications policy and planning), in subsection (b), in subdivision (9), after the words "deployment of broadband infrastructure" by striking out the words "pursuant to the objectives set forth in S.78 of the Acts of 2011"

Thirty-first: In Sec. 24c (report on the VTA's sustainability), in subsection (a), by striking out the word "ubiquitous" and inserting in lieu thereof "universal"

Thirty-second: By adding a new section to be numbered Sec. 24d to read as follows:

Sec. 24d. VTA FUNDING; FIBER-OPTIC FACILITIES; NORTH LINK

(a) Notwithstanding Sec. 14 of No. 2 of the Acts of 2009 (Special Session), which appropriated the sum of $500,000.00 from the general fund to the Vermont telecommunications authority (VTA) for the purpose of financing a transaction with Northern Enterprises, Inc. ("North Link"), such funds shall be used to complete the construction and installation of an open access fiber-optic

network from Hardwick, Vermont to Newport, Vermont.

(b) The funds appropriated under this section may be used for direct investment in fiber-optic facilities, to be owned by the VTA, or for grants to telecommunications service providers.

(c) Fiber-optic facilities owned by the VTA pursuant to this section shall include fiber strands for use by a telecommunications service provider to deliver broadband Internet access directly to homes, businesses, and institutional users (last-mile connectivity), in addition to strands which may be used to interconnect with other broadband and cellular facilities (middle mile) or to support system control and data acquisition for an electric distribution utility for smart metering technology solutions.

(d) Fiber-optic facilities funded in whole or in part with funds appropriated under this section shall be available for use by as many telecommunications service providers as the technology will permit on a nondiscriminatory basis and according to published terms and conditions.

Rep. Keenan of St. Albans City, for the committee in Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Commerce and Economic Development.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and report of the committees on Commerce and Economic Development and Appropriations agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 92

Rep. Buxton of Royalton, for the committee on Education, to which had been referred Senate bill, entitled

An act relating to the protection of students' health by requiring the use of safe cleaning products in schools

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 39 is added to read:

CHAPTER 39. CLEANING PRODUCTS IN SCHOOLS

§ 1781. DEFINITIONS

As used in this chapter:

(1) "Air freshener" means an aerosol spray, liquid deodorizer, plug-in product, para-di-chlorbenzene block, scented urinal screen, or other product used to mask odors or freshen the air in a room.

(2) "Antimicrobial pesticide" means a product regulated by the federal Insecticide, Fungicide and Rodenticide Act that is intended to:

(A) disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms; or

(B) protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.

(3) "Cleaning product" means an institutional compound intended for routine cleaning, including general purpose cleaners, bathroom cleaners, glass cleaners, carpet cleaners, floor care products, and hand soaps. Cleaning product shall not mean an antimicrobial pesticide.

(4) "Conventional cleaning product" means a cleaning product that is not an environmentally preferable cleaning product.

(5) "Distributor" means any person or entity that distributes cleaning products commercially, but excludes retail stores.

(6) "Environmentally preferable cleaning product" means a cleaning product that has a lesser or reduced effect on human health and the environment when compared to competing products serving the same purpose.

(7) "Green cleaning" means a practice that includes the use of a cleaning product certified as environmentally preferable by an independent third party, best practices that follow accepted management standards and improve indoor air quality, and equipment that facilitates effective cleaning.

(8)(A) "Independent third party" means a nationally recognized organization that has developed a program for the purpose of certifying environmentally preferable cleaning products. The independent third party's certification program shall:

(i) define a manufacturer's certification fees;

(ii) identify any potential conflicts of interest;

(iii) base certification on consideration of human health and safety, ecological toxicity, other environmental impacts, and resource conservation as appropriate for the product and its packaging on a life-cycle basis;

(iv) develop certification standards in an open, public, and transparent manner that involves the public and key stakeholders;

(v) periodically revise and update the standards to remain consistent with current research about the impacts of chemicals on human health;

(vi) monitor and enforce the standards for the purpose of certification, and have the authority to inspect the manufacturing facility and periodically do so, and have a registered or legally protected certification mark; and

(vii) make the standards easily accessible to purchasers and manufacturers; or

(B) In the alternative, "independent third party" means any organization otherwise deemed by the department of health to satisfactorily assess and certify environmentally preferable cleaning products.

(9) "Manufacturer" means any person or entity engaged in the process of manufacturing cleaning products for commercial distribution.

(10) "School" means:

(A) A public school in Vermont, including a regional technical center and a comprehensive high school; and

(B) An approved independent school.

§ 1782. ENVIRONMENTALLY PREFERABLE CLEANING PRODUCTS

(a) A distributor or manufacturer of cleaning products only shall sell, offer for sale, or distribute to a school, school district, supervisory union, or procurement consortium:

(1) environmentally preferable cleaning products utilized by the department of buildings and general services under state contracts; or

(2) cleaning products certified as environmentally preferable by an independent third party.

(b) A person who contracts with a school, school district, or supervisory union to provide cleaning services for a school only shall use a cleaning product that meets the requirements of subdivisions (a)(1) and (2) of this section.

(c) Nothing in this chapter shall be construed to regulate the sale, use, or distribution of antimicrobial pesticides.

§ 1783. AIR FRESHENERS

A distributor or manufacturer shall not sell, offer for sale, or distribute air fresheners to a school, school district, supervisory union, or procurement consortium.

Sec. 2. TRANSITION

Notwithstanding the provisions of 18 V.S.A. § 1782:

(1) A manufacturer or distributor of cleaning products may continue to sell, offer for sale, or distribute conventional cleaning products to a school, school district, supervisory union, or procurement consortium until July 1, 2011. A school may continue to use conventional cleaning products purchased prior to July 1, 2011 until supplies are depleted.

(2) A manufacturer or distributor of cleaning products may continue to sell, offer for sale, or distribute conventional cleaning products to an approved independent school with fewer than 50 students until July 1, 2012. An approved independent school with fewer than 50 students may continue to use conventional cleaning products purchased prior to July 1, 2012 until supplies are depleted.

Sec. 3. Sec. 2 of No. 125 of the Acts of the 1999 Adj. Sess. (2000) is amended to read:

Sec. 2. COMMISSIONERS OF HEALTH AND OF BUILDINGS AND GENERAL SERVICES; SCHOOL ENVIRONMENTAL HEALTH WEBSITE

(a) The commissioners of health and of buildings and general services shall jointly create and jointly update as necessary an electronic school environmental health clearinghouse site on the health department's website, including diagnostic checklists and searchable databases. This website shall include:

(1) Information on materials and practices in common use in school operations and construction that may compromise indoor air quality or negatively impact human health;

(2) Information on potential health problems associated with these materials, with specific reference to children's vulnerability;

(3) Information on integrated pest management and alternatives to chemical pest control;

(4) Information on methods to reduce or eliminate exposure to potentially hazardous substances in schools, including the following:

(A) a list of preventive management options, such as ventilation, equipment upkeep, design strategies, and performance standards;

(B) a list of nontoxic or least-toxic office and classroom supplies, ~~maintenance and cleaning chemicals,~~ building equipment, and materials and furnishings; and

(C) a list of environmental health criteria that schools may use as a decision-making tool when determining what materials to purchase or use in school construction or operations;

(5) Information on environmentally preferable cleaning products, including:

(A) a list of environmentally preferable cleaning products used by the department of buildings and general services under state contracts or a list of environmentally preferable cleaning products certified by an independent third party pursuant to 18 V.S.A. chapter 39; and

(B) procedures for using environmentally preferable cleaning products;

~~(5)~~(6) The model school environmental health policy and management plan developed pursuant to Sec. 3 of this act.

(b) The commissioners of health, of buildings and general services, and of education, with help from the secretary of the agency of natural resources when appropriate, shall:

(1) Review the information on the school environmental health information clearinghouse at least twice yearly, and update it whenever significant developments occur.

(2) At the request of school officials, assist school environmental health coordinators to identify potential sources of environmental pollution in the school, and make recommendations on how to alleviate any problems.

(3) Annually, organize a school environmental health training workshop for school environmental health coordinators and school administrators, and an annual training for school maintenance and custodial staff. Each workshop and training shall include instruction on green cleaning practices, including products and procedures as defined pursuant to 18 V.S.A. § 1781. The department shall issue certificates of training to participants who successfully complete the workshops.

(4) Publicize the availability of information through the school environmental health clearinghouse.

(5) Provide information and referrals to members of school communities who contact the school environmental health clearinghouse with hazardous exposure and indoor air concerns.

(6) Assist elementary and secondary schools in Vermont to establish comprehensive school environmental health programs, which have all or most

of the elements of the model policy developed pursuant to Sec. 3 of this act, to address indoor air and hazardous exposure issues.

(7) Report annually to the house and senate committees on education on the extent of indoor air and hazardous exposure problems in Vermont schools and on the percentage of Vermont schools that have established a school environmental health program or qualified for environmental health certification.

(c) Any information provided under this section shall be based on peer-reviewed published scientific material.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Education? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Education? was decided in the affirmative. Yeas, 92. Nays, 37.

Those who voted in the affirmative are:

Ancel of Calais
Andrews of Rutland City
Atkins of Winooski
Bartholomew of Hartland
Bissonnette of Winooski
Botzow of Pownal
Burke of Brattleboro
Buxton of Royalton
Campion of Bennington
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Conquest of Newbury
Copeland-Hanzas of Bradford
Corcoran of Bennington
Courcelle of Rutland City
Crawford of Burke
Dakin of Chester
Davis of Washington
Deen of Westminster
Donovan of Burlington
Edwards of Brattleboro
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fisher of Lincoln
Font-Russell of Rutland City
Frank of Underhill
French of Shrewsbury
French of Randolph
Gilbert of Fairfax
Grad of Moretown
Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Howard of Cambridge
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Kitzmiller of Montpelier
Klein of East Montpelier
Krebs of South Hero
Kupersmith of South Burlington
Lanpher of Vergennes
Larocque of Barnet
Larson of Burlington
Lenes of Shelburne
Leriche of Hardwick
Lewis of Berlin
Lippert of Hinesburg
Lorber of Burlington
Macaig of Williston
Malcolm of Pawlet
Marek of Newfane
Martin of Springfield
Martin of Wolcott
McCullough of Williston
McFaun of Barre Town
Miller of Shaftsbury

Mitchell of Barnard
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
Munger of South Burlington
Nuovo of Middlebury
Olsen of Jamaica
Pearson of Burlington
Peltz of Woodbury
Perley of Enosburgh
Potter of Clarendon
Pugh of South Burlington
Ram of Burlington
Shand of Weathersfield
Sharpe of Bristol
South of St. Johnsbury
Spengler of Colchester
Stevens of Waterbury
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toll of Danville
Trieber of Rockingham
Waite-Simpson of Essex
Webb of Shelburne
Weston of Burlington
Wilson of Manchester
Wizowaty of Burlington
Wright of Burlington
Yantachka of Charlotte

Those who voted in the negative are:

Acinapura of Brandon
Batchelor of Derby
Bouchard of Colchester
Branagan of Georgia
Brennan of Colchester
Burditt of West Rutland
Canfield of Fair Haven
Consejo of Sheldon
Devereux of Mount Holly
Donaghy of Poultney
Donahue of Northfield
Eckhardt of Chittenden
Fagan of Rutland City
Greshin of Warren
Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Howrigan of Fairfield
Hubert of Milton
Koch of Barre Town
Komline of Dorset
Lawrence of Lyndon
Lewis of Derby
Marcotte of Coventry
McNeil of Rutland Town
Morrissey of Bennington
Myers of Essex
Pearce of Richford
Peaslee of Guildhall
Reis of St. Johnsbury
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Smith of New Haven
Strong of Albany
Townsend of Randolph
Turner of Milton
Young of Albany

Those members absent with leave of the House and not voting are:

Aswad of Burlington
Bohi of Hartford
Browning of Arlington
Clark of Vergennes
Condon of Colchester
Degree of St. Albans City
Dickinson of St. Albans Town
Johnson of Canaan
Kilmartin of Newport City
Manwaring of Wilmington
Masland of Thetford
McAllister of Highgate
O'Brien of Richmond
Partridge of Windham
Poirier of Barre City
Ralston of Middlebury
Stevens of Shoreham
Winters of Williamstown
Woodward of Johnson

Rep. Donahue of Northfield explained her vote as follows:

"Mr. Speaker:

This bill is heavy handed and unnecessary. It took me five minutes on the internet to find air fresheners that are not only 100% green but that protect young lungs from pollen and smoke particles, as well as odors."

Rep. Reis of St. Johnsbury explained his vote as follows:

"Mr. Speaker:

Apparently, local control means local control as long as the locals do what

Montpelier tells them to do."

Rep. Scheuermann of Stowe explained her vote as follows:

"Mr. Speaker:

Those who argue amongst education funding reform do so in the name of local control. Ironically the same people on this vote proved, once again, that there is no such thing. Maybe all will finally admit that the concept of local control of our education is merely an illusion."

Thereupon, third reading was ordered.

Rules Suspended; Bill Amended; Third Reading Ordered

H. 53

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to the Interstate Wildlife Violator Compact

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Krebs of South Hero, for the committee on Fish, Wildlife & Water Resources, to which had been referred the bill reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 108 is added to read:

CHAPTER 108. INTERSTATE WILDLIFE VIOLATOR COMPACT

§ 4451. ADOPTION OF COMPACT

The Wildlife Violator Compact is hereby enacted into law and entered into by the State of Vermont with any and all states legally joining therein in accordance with its terms. The compact is substantially as follows:

ARTICLE I

Findings, Declaration of Policy and Purpose

(a) The party states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute or rule relating to the management of those resources.

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of these natural resources.

(4) Wildlife resources are valuable without regard to political boundaries; therefore, all persons should be required to comply with wildlife preservation, protection, management, and restoration statutes, rules, and other law of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communications among the various states.

(7) A person who is cited for a wildlife violation in a state other than the person's home state:

(A) may be required to post collateral or bond to secure appearance for a trial at a later date;

(B) if unable to post collateral or bond, may be taken into custody until the collateral or bond is posted; or

(C) may be taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices described in subdivision (7) of this subsection is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) A person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to continue immediately on the person's way after agreeing or being instructed to comply with the terms of the citation.

(10) The practice described in subdivision (7) of this subsection causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

(11) The enforcement practices described in subdivision (7) of this subsection consume an undue amount of law enforcement time.

(b) It is the policy of the party states to:

(1) Promote compliance with the statutes, rules, and other applicable law relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges or rights of any person whose license privileges or rights have been suspended by a party state and treat this suspension as if it had occurred in the person's state.

(3) Allow violators to accept a wildlife citation, except as provided in subsection (b) of Article III of this compact, and be released without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate party state any conviction that would subject a person to suspension and that is recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat a conviction that would subject a person to suspension and that is recorded for their residents and which occurred in another party state as if the conviction had occurred in the home state.

(6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subsection (b) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

ARTICLE II

Definitions

The definitions in this article apply throughout this compact and are intended only for the implementation of this compact:

(1) "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(3) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(4) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, rule, or other relevant law, or a forfeiture of bail, bond, or other security deposited to secure the appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(5) "Court" means a court of law.

(6) "Home state" means the state of primary residence of a person.

(7) "Issuing state" means the party state which issues a wildlife citation to the violator.

(8) "License" means any license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, rule, or other relevant law of a party state.

(9) "Licensing authority" means the department within each party state authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(10) "Party state" means any state which enacts legislation to become a member of this wildlife compact.

(11) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.

(12) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, provinces of Canada, or other countries.

(13) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges or rights, including the privilege or right to apply for, purchase, or exercise the benefits conferred by any license.

(14) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(15) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, rule, or other relevant law in a party state. "Wildlife" also means food fish and shellfish as defined by statute, rule, or other relevant law in a party state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on state law.

(16) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

(17) "Wildlife officer" means any individual authorized by a party state to issue a citation for a wildlife violation.

(18) "Wildlife violation" means any cited violation of a statute, rule, or other relevant law developed and enacted to manage wildlife resources and the use thereof.

ARTICLE III

Procedures for Issuing State

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subsection (b) of this article, if the officer receives the person's personal recognizance that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable:

(1) If not prohibited by local law or the rules of the department of fish and wildlife; and

(2) If the violator provides adequate proof of the violator's identification to the wildlife officer.

(c) Upon conviction of a wildlife violation subject to suspension or upon failure of a person to comply with the terms of a wildlife citation, the

appropriate official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state.

(d) Upon receipt of the report of conviction or noncompliance required by subsection (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content specified by the department of fish and wildlife in rule.

ARTICLE IV

Procedures for Home State

(a) Upon receipt of a report of a failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's enforcement procedures, and shall suspend the violator's license privileges or rights until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction of a wildlife violation subject to suspension from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records according to current procedure and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license privileges and for the purposes of the term of the suspension of privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in rules adopted by the department of fish and wildlife.

ARTICLE V

Reciprocal Recognition of Suspension

All party states shall recognize the suspension of license privileges or rights of any person by any party state as if the violation on which the suspension is based had in fact occurred in the person's state and would have been the basis for suspension of license privileges or rights in his or her state.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

ARTICLE VII

Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board of compact administrators shall be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each party state, except that in Vermont the compact administrator shall be appointed according to 10 V.S.A. § 4452, and will serve and be subject to removal in accordance with the laws of the state the administrator represents. A compact administrator may provide for the discharge of the administrator's duties and the performance of the administrator's functions as a board of compact administrators' member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board of compact administrators.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board of compact administrators shall be binding unless taken at a meeting at which a majority of the total number of votes on the board of compact administrators are cast in favor thereof. Action by the board of compact administrators shall be only at a meeting at which a majority of the party states are represented.

(c) The board of compact administrators shall elect annually, from its membership, a chairperson and vice chairperson.

(d) The board of compact administrators shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board of compact administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from

any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(f) The board of compact administrators may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(g) The board of compact administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board of contact administrators' action shall be contained in the rules adopted by the department of fish and wildlife.

ARTICLE VIII

Entry Into Compact and Withdrawal

(a) This compact shall become effective when it has been adopted by at least two states.

(b)(1) Entry into the compact shall be made by an act or resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board of compact administrators.

(2) The act or resolution shall include statements that in substance are as follows:

(A) A citation of the authority by which the state is empowered to become a party to this compact;

(B) Agreement to comply with the terms and provisions of the compact; and

(C) That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than 60 days after notice has been given by the chairperson of the board of compact administrators or by the secretariat of the board of compact administrators to each party state that has received the resolution from the applying state.

(c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

ARTICLE IX

Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one or more party states.

(b) Adoption of an amendment shall require endorsement by all party states and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a party state to respond to the compact chairperson within 120 days after receipt of the proposed amendment shall constitute endorsement.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XI

Compact Title

This compact shall be known as the wildlife violator compact.

§ 4452. COMPACT ADMINISTRATOR

The compact administrator for Vermont shall be the commissioner of fish and wildlife or a designated representative of the commissioner. The duties of the compact administrator shall be deemed a regular part of the duties of the office of the commissioner of fish and wildlife.

§ 4453. RULEMAKING

The department of fish and wildlife may adopt rules to carry out the purposes of this chapter.

§ 4454. PENALTIES

(a) Notwithstanding section 4502 of this title, the commissioner may suspend a Vermont hunting, fishing, or trapping license of a person convicted of a wildlife violation in a state party to the compact, provided that the wildlife

violation would have been the basis for suspension of license privileges in Vermont.

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

(c)(1) Prior to suspending a Vermont hunting, fishing, or trapping license of a person under subsection (a) of this section, the commissioner shall notify the person in writing. A suspension shall be deemed effective:

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

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

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

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

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

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

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

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

(A) Administer oaths;

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

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

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

(5) A suspension of a license under this chapter is a civil suspension, and a decision of the commissioner or hearing officer under this section shall not be appealable.

§ 4455. WITHDRAWAL FROM COMPACT

Withdrawal of Vermont from the compact, as authorized under Article VIII of the compact, shall be by an act or resolution of the general assembly.

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

§ 4518. BIG GAME VIOLATIONS

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

(b) A person who hunts, fishes, traps, possesses, or transports wildlife in Vermont in violation of a suspension or revocation of a license under chapter 108 of this title or a person who purchases or possesses a license to hunt, fish, trap, possess, or transport wildlife in Vermont in violation of a suspension or revocation of a license under chapter 108 of this title shall be subject to the penalties set forth in subsection (a) of this section.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

Thereupon, the bill was read the second time, report of the committee on Fish, Wildlife & Water Resources agreed to and third reading ordered.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 6

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to powers and immunities of the liquor control investigators;

Appearing on the Calendar for notice, was taken up for immediate consideration.

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

Sec. 1. 7 V.S.A. § 561(a) is amended to read:

(a) The director of the enforcement division of the department of liquor control and investigators employed by the liquor control board or by the department of liquor control shall be law enforcement officers and shall have the same powers and immunities as those conferred on the state police by ~~section 1914 of Title 20, as necessary to carry out liquor control enforcement duties under this title or while performing liquor control enforcement duties at~~

~~a licensed premise or event catered by a licensee or in the immediate vicinity of a licensed premise or an event catered by a licensee~~ 20 V.S.A.§ 1914.

Sec. 2. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include sheriffs, deputy sheriffs, constables, police officers, state's attorneys, capitol police officers, motor vehicle inspectors, liquor investigators, state game wardens, and state police, and for enforcement of offenses relating to parking of motor vehicles, meter checkers, and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations. "Enforcement officers" shall also include duly authorized employees of the department of motor vehicles for the purpose of issuing complaints related to their administrative duties, for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3) and (4) of this title, pursuant to 4 V.S.A. § 1105.

Sec. 3. 7 V.S.A. § 561(a) is amended to read:

(a) The director of the enforcement division of the department of liquor control and investigators employed by the liquor control board or by the department of liquor control shall be law enforcement officers and shall have the same powers and immunities as those conferred on the state police by 20 V.S.A. § 1914, as necessary to carry out liquor control enforcement duties under this title or while performing liquor control enforcement duties at a licensed premise or event catered by a licensee or in the immediate vicinity of a licensed premise or an event catered by a licensee.

Sec. 4. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include sheriffs, deputy sheriffs, constables, police officers, state's attorneys, capitol police officers, motor vehicle inspectors, ~~liquor investigators,~~ state game wardens, and state police, and for enforcement of offenses relating to parking of motor vehicles, meter checkers, and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations. "Enforcement officers" shall also include duly authorized employees of the department of motor vehicles for the purpose of issuing complaints related to their administrative duties, for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3) and (4) of this title, pursuant to 4 V.S.A. § 1105.

Sec. 5. EFFECTIVE DATES

(a) Secs. 1 and 2 and this section shall take effect on passage.

(b) Secs. 3 and 4 of this act shall take effect on July 1, 2013.

Which proposal of amendment was considered and concurred in.

Rules Suspended; Bill Read Third Time and Passed

H. 53

House bill, entitled

An act relating to the Interstate Wildlife Violator Compact;

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage.

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

Rules Suspended; Bill Messaged to Senate Forthwith

S. 100

Senate bill, entitled

An act relating to making miscellaneous amendments to education laws;

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Rules Suspended; Action Ordered Messaged to Senate Forthwith and Bills Delivered to the Governor Forthwith

H. 6

House bill, entitled

An act relating to powers and immunities of the liquor control investigators;

H. 53

House bill, entitled

An act relating to the Interstate Wildlife Violator Compact;

On motion of **Rep. Turner of Milton**, the rules were suspended and action on the bills were ordered messaged to the Senate forthwith and the bills delivered to the Governor forthwith.

Adjournment

At five o'clock and forty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock in the forenoon.