

Journal of the House

Tuesday, April 24, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Caleb Abetti of St. Jacob of Alaska Orthodox Church, Northfield Falls, VT.

Pledge of Allegiance

Page Danielle Bachand of Starksboro led the House in the Pledge of Allegiance.

Message from the Senate No. 49

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 45. Senate concurrent resolution congratulating the 2012 Vermont Prudential Spirit of Community Award winners.

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

H.C.R. 353. House concurrent resolution designating May 6–12, 2012 as National Nurses Week in Vermont.

H.C.R. 354. House concurrent resolution congratulating the Bromley Mountain Ski Resort and the Bromley Outing Club on celebrating their respective 75th and 60th anniversaries.

H.C.R. 355. House concurrent resolution congratulating the Champlain Valley Union High School Redhawks 2012 Division I championship girls' Nordic ski team.

H.C.R. 356. House concurrent resolution commemorating the 25th anniversary of the Rutland Open Door Mission at its Park Street location.

H.C.R. 357. House concurrent resolution in memory of Allyn Seward of East Wallingford.

H.C.R. 358. House concurrent resolution congratulating Circus Smirkus on its 25th anniversary.

H.C.R. 359. House concurrent resolution congratulating Marita Johnson on being named the Springfield Regional Chamber of Commerce's 23rd Annual Citizen of the Year.

H.C.R. 360. House concurrent resolution honoring Brian Lowe for his volunteer ornithological protection activities.

H.C.R. 361. House concurrent resolution congratulating the Woodstock Union High School Wasps on winning their third consecutive Division II boys' Nordic skiing championship.

H.C.R. 362. House concurrent resolution honoring the educational and community leadership of Jerry Sullivan.

H.C.R. 363. House concurrent resolution congratulating Alfred L. Pinsonneault Jr. on 50 exemplary years of service with the Town of Bennington Rescue Squad, Inc.

H.C.R. 364. House concurrent resolution honoring Andreas Lehner for his outstanding administrative leadership in public education.

H.C.R. 365. House concurrent resolution congratulating the South Burlington Dolphins on winning the 2011 Northern Vermont Youth Football League state championship.

H.C.R. 366. House concurrent resolution designating April as the month of the military child in Vermont.

H.C.R. 367. House concurrent resolution congratulating Blanche Lamore on her 100th birthday.

H.C.R. 368. House concurrent resolution remembering the life of U.S. Army Major Jonathan Kirk Weaver.

H.C.R. 369. House concurrent resolution congratulating the Rochester School winners of the 2012 Vermont aviation art contest.

Message from the Senate No. 50

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 on its part adopted joint resolution of the following title:

J.R.S. 59. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

S. 113

Senate bill, entitled

An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools;

S. 138

Senate bill, entitled

An act relating to calculation of criminal sentences and record keeping for search warrants.

Joint Resolution Adopted in Concurrence

J.R.S. 59

By Senators Carris and Mullin,

J.R.S. 59. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, 26, 2012, or, Friday, April 27, 2012, it be to meet again no later than Tuesday, May 1, 2012.

Was taken up read and adopted in concurrence.

Committee Not Relieved of Consideration

H. 427

Rep. Olsen of Jamaica moved that the committee on Judiciary be relieved of House bill entitled

An act relating to penalties for possession of marijuana;

Pending the question, Shall the Committee on Judiciary be relieved of the bill? **Rep. Degree of St. Albans City** 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 Committee on Judiciary be relieved of the bill? was decided in the negative. Yeas, 21. Nays, 119.

Those who voted in the affirmative are:

Bouchard of Colchester	Dickinson of St. Albans	Lewis of Berlin
Branagan of Georgia	Town	Olsen of Jamaica
Burditt of West Rutland	Eckhardt of Chittenden	Peaslee of Guildhall
Clark of Vergennes	Greshin of Warren	Ram of Burlington
Crawford of Burke	Hebert of Vernon	Savage of Swanton
Davis of Washington	Howard of Cambridge	Turner of Milton
Degree of St. Albans City	Komline of Dorset	Young of Glover
	Larocque of Barnet	

Those who voted in the negative are:

Acinapura of Brandon	French of Randolph	McAllister of Highgate
Ancel of Calais	Grad of Moretown	McCullough of Williston
Andrews of Rutland City	Haas of Rochester	McFaun of Barre Town
Aswad of Burlington	Head of South Burlington	McNeil of Rutland Town
Atkins of Winooski	Heath of Westford	Miller of Shaftsbury
Bartholomew of Hartland	Helm of Fair Haven	Mook of Bennington
Batchelor of Derby	Higley of Lowell	Moran of Wardsboro
Bissonnette of Winooski	Hooper of Montpelier	Mrowicki of Putney
Bohi of Hartford	Howrigan of Fairfield	Munger of South Burlington
Botzow of Pownal	Hubert of Milton	Myers of Essex
Brennan of Colchester	Jerman of Essex	Nuovo of Middlebury
Browning of Arlington	Jewett of Ripton	O'Sullivan of Burlington
Burke of Brattleboro	Johnson of South Hero	Partridge of Windham
Campion of Bennington	Johnson of Canaan	Pearce of Richford
Canfield of Fair Haven	Keenan of St. Albans City	Peltz of Woodbury
Cheney of Norwich	Kilmartin of Newport City *	Perley of Enosburgh
Christie of Hartford	Kitzmiller of Montpelier	Poirier of Barre City
Clarkson of Woodstock	Klein of East Montpelier	Potter of Clarendon
Condon of Colchester	Koch of Barre Town	Pugh of South Burlington
Conquest of Newbury	Krebs of South Hero	Ralston of Middlebury
Consejo of Sheldon	Krowinski of Burlington	Reis of St. Johnsbury
Copeland-Hanzas of Bradford	Kupersmith of South Burlington	Russell of Rutland City
Corcoran of Bennington	Lanpher of Vergennes	Scheuermann of Stowe
Courcelle of Rutland City	Lawrence of Lyndon	Shand of Weathersfield
Dakin of Chester	Lenes of Shelburne	Sharpe of Bristol
Deen of Westminster	Leriche of Hardwick	Shaw of Pittsford
Devereux of Mount Holly	Lewis of Derby	Smith of New Haven
Donaghy of Poultney	Lippert of Hinesburg	Spengler of Colchester
Donahue of Northfield	Lorber of Burlington *	Stevens of Waterbury
Donovan of Burlington	Macaig of Williston	Stevens of Shoreham
Edwards of Brattleboro	Malcolm of Pawlet	Strong of Albany
Ellis of Waterbury	Manwaring of Wilmington	Stuart of Brattleboro
Emmons of Springfield	Marcotte of Coventry	Sweaney of Windsor
Evans of Essex	Marek of Newfane	Taylor of Barre City
Fagan of Rutland City	Martin of Springfield	Till of Jericho
Fisher of Lincoln	Martin of Wolcott	Toll of Danville
Frank of Underhill	Masland of Thetford	Townsend of Randolph
		Trieber of Rockingham

Waite-Simpson of Essex	Winters of Williamstown	Zagar of Barnard
Webb of Shelburne	Wizowaty of Burlington	
Wilson of Manchester	Yantachka of Charlotte	

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

Buxton of Tunbridge	Morrissey of Bennington	South of St. Johnsbury
French of Shrewsbury	O'Brien of Richmond	Woodward of Johnson
Gilbert of Fairfax	Pearson of Burlington	Wright of Burlington

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

No, and I am still ‘very happy’ without inhaling any ‘mary jane’.”

Rep. Lorber of Burlington explained his vote as follows:

“Mr. Speaker:

I support decriminalization of marijuana. But that’s not what today’s vote is. And we all know it.”

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 189

Senate bill, entitled

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

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 89

Rep. French of Randolph, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to Medicaid for Working Persons with Disabilities

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. ANALYSIS OF COSTS AND SAVINGS

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

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

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

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

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

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

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

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

(b) No later than January 15, 2013, the secretary of human services shall report to the house committees on human services and on appropriations and the senate committees on health and welfare and on appropriations the results of the analysis conducted pursuant to subsection (a) of this section, as well as recommendations about whether and how to pursue any or all of the options described in subdivisions (a)(1) through (7) of this section.

Sec. 2. SPOUSAL INCOME DISREGARD; RULEMAKING

(a) If supported by the analysis performed pursuant to Sec. 1(a)(4) of this act, the secretary of human services shall disregard the income of an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) in determining the

eligibility of such person's spouse to receive medical assistance pursuant to Title XIX (Medicaid) of the Social Security Act. The secretary shall implement the income disregard in a timely manner in order to ensure that it will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

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

Sec. 3. DEVELOPMENTAL DISABILITY SERVICES

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

Sec. 4. ORGAN AND TISSUE DONATION

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

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

Sec. 5. ORGAN AND TISSUE DONATION WORKING GROUP

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

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

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

- (2) the commissioner of motor vehicles or designee;
- (3) a representative of the Vermont Medical Society;
- (4) representatives from the federally designated organ procurement organizations serving Vermont; and
- (5) other interested stakeholders.

(c) The working group shall develop recommendations regarding:

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

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

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

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

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

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

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered**S. 244**

Rep. Waite-Simpson of Essex, for the committee on Judiciary, to which had been referred Senate bill, entitled

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

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

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

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

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

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

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

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

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

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the driving with license suspended diversion

program shall not be counted as prior offenses under subdivision (2) of this subsection.

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

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

§ 2502. POINT ASSESSMENT; SCHEDULE

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

* * *

(4) Five points assessed for:

* * *

(D) § ~~676.~~

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

* * *

(5) Ten points assessed for:

(A) § ~~674.~~

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

* * *

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

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

§ 2506. PROCEDURE

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

of one year in addition to the suspension under the point values. For purposes of this section, a month shall be considered as 30 days and one year shall equal 365 days.

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

Sec. 5. SUNSET

This act shall be repealed on July 1, 2015.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 251

Rep. Lanpher of Vergennes, for the committee on Transportation, to which had been referred Senate bill, entitled

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

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

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

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

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

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

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

(B) Next-of-kin plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces not eligible for gold star plates under subdivision (A) of this

subdivision (1) who lost their lives while serving on active duty or on active duty for training, or while assigned in a reserve or national guard unit in drill status, or as a result of injury or illness incurred during such service or assignment.

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

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

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

§ 1112. CLOSED HIGHWAYS

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

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

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

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

§ 2502. POINT ASSESSMENT; SCHEDULE

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

(1) Two points assessed for:

* * *

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- (LL) § 1095. ~~Operating with television set installed~~
Entertainment picture visible to the operator;
- (MM) § 1099. Texting prohibited—first offense;
- (NN) § 1112. Closed highways;
- ~~(NN)~~(OO) § 1113. Illegal backing;
- ~~(OO)~~(PP) § 1114. Illegal riding on motorcycles;
- ~~(PP)~~(QQ) § 1115. Illegal operation of motorcycles on
roadways laned for traffic;
- ~~(QQ)~~(RR) § 1116. Clinging to other vehicles;
- ~~(RR)~~(SS) § 1117. Illegal footrests and handlebars;
- ~~(SS)~~(TT) § 1118. Obstructing the driver's view;
- ~~(TT)~~(UU) § 1119. Improper opening and closing vehicle
doors;
- ~~(UU)~~(VV) § 1121. Coasting prohibited;
- ~~(VV)~~(WW) § 1122. Following fire apparatus prohibited;
- ~~(WW)~~(XX) § 1123. Driving over fire hose;
- ~~(XX)~~(YY) § 1124. Position of operator;
- ~~(YY)~~(ZZ) § 1127. Unsafe control in presence of horses and
cattle;
- ~~(ZZ)~~(AAA) § 1131. Failure to give warning signal;
- ~~(AAA)~~(BBB) § 1132. Illegal driving on sidewalk;
- ~~(BBB)~~(CCC) § 1243. Lighting requirements;
- ~~(CCC)~~(DDD) § 1256. Motorcycle headgear;
- ~~(DDD)~~(EEE) § 1257. Face protection;
- ~~(EEE)~~(FFF) § 800. Operating without financial
responsibility;
- ~~(FFF)~~(GGG) All other moving violations which have
no specified points;

* * *

* * * Conforming Change * * *

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

(5) “All-terrain vehicle” or “ATV” means any nonhighway recreational vehicle, except snowmobiles, having no less than two low pressure tires (10 pounds per square inch, or less), not wider than 60 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and ~~(ZZ)~~(BBB); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

and by renumbering the remaining section to be numerically correct.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 53

The Senate proposed to the House to amend House bill, entitled

An act relating to the Interstate Wildlife Violator Compact

First: In Sec. 1, by striking 10 V.S.A. § 4454 in its entirety and inserting in lieu thereof the following:

§ 4454. PENALTIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Administer oaths;

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

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

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

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

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

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

§ 4502. UNIFORM POINT SYSTEM; REVOCATION OF LICENSE

(a) A uniform point system which assigns points to those convicted of a violation of a provision of this part is established. The conviction report from the court shall be prima facie evidence of the points assessed. In addition to other penalties assessed for violation of fish and wildlife statutes, the commissioner shall suspend licenses issued under this part which are held by a person who has accumulated ten or more points in accordance with the provisions of subsection (c) of this section.

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

* * *

(3) Twenty points shall be assessed for:

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

* * *

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

(V) § 4454. Interstate Wildlife Violator Compact.

* * *

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 440

The Senate proposed to the House to amend House bill, entitled

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

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

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

CHAPTER 49. EDUCATION

§ 2701. AGENCY AND SECRETARY CREATED

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

§ 2702. SECRETARY OF EDUCATION

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

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

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

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

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

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

* * *

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

§ 163. ~~OFFICE STAFF~~; MEETINGS

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

(b) The board shall meet monthly and shall hold special meetings as required for the performance of its duties. The times and places for regular and special meetings shall be designated by the ~~chairman~~ chair of the board. The

~~chairman~~ chair shall call a special meeting upon the written request of any two members.

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

§ 164. STATE BOARD, GENERAL POWERS AND DUTIES

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

* * *

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

* * *

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

* * *

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

* * *

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

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

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

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

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

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

Sec. 6. REPEAL

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

* * * Transition * * *

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

On January 1, 2013:

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

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

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

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

Sec. 9. EFFECTIVE DATES

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

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

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

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed**

H. 464

The Senate proposed to the House to amend House bill, entitled

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

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

Sec. 1. FINDINGS

The general assembly finds and declares that:

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

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

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

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

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

§ 503. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

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

* * *

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

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

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

Subchapter 8. Hydraulic Fracturing for Oil or Gas Recovery

§ 571. HYDRAULIC FRACTURING; PROHIBITION

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

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

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

§ 1259. PROHIBITIONS

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

* * *

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

direct discharge into Class B waters of any wastes that prior to treatment contained organisms pathogenic to human beings.

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

* * *

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

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

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

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

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

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

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

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

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

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

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. McCullough of Williston** 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. McCullough of Williston
Rep. Krebs of South Hero
Rep. Webb of Shelburne

**Senate Proposal of Amendment to House
Proposal of Amendment Concurred in**

S. 181

The Senate concurred in the House proposal of amendment to House bill, entitled

An act relating to school resource officers

With the following proposal of amendment thereto:

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

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

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

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

Which proposal of amendment to the House proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Concurred in
with a Further Amendment Thereto**

H. 785

The Senate proposed to the House to amend House bill, entitled

An act relating to capital construction and state bonding budget adjustment

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

Sec. 1. FINDINGS

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

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

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

Sec. 1. LEGISLATIVE INTENT

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

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

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

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

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

* * *

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

Sec. 2. STATE BUILDINGS

* * *

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

* * *

(4) Statewide, major maintenance. Of this amount, up to \$360,000 may be used for window sills and frames in coordination with the ARRA-funded window replacement project in Waterbury and up to \$270,000 may be used for Vergennes (the former Weeks School) Stormwater Runoff. For the purposes

of this act, major maintenance shall mean deferred maintenance, planned capital renewal, and routine maintenance as these terms are defined in the memorandum of explanation of terminology dated April 14, 2011 from BGS to the chairs of the institutions committees: 8,000,000

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

(8) Montpelier, state house, renovate and refurnish house committee rooms, for completion of the third floor rooms, to continue to make better use of existing space and for upgrading the state house sound system. The speaker of the house shall be the ultimate point of contact and decision-maker for ensuring timely completion of this project. By January 1, 2013, the Ethan Allen room shall be restored to public use:
380,960

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

11,975,000

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

4,975,000

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

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

1,000,000

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

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

* * *

(f)(1) Option B of the of the Freeman, French, Freeman report published on March 9, 2012 aligns closely with the general assembly's vision for the

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

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

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

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

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

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

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

(B) In making its decision, the special committee shall consider how the design impacts the ability of the state to provide services to citizens, programming, the financial consequences to the state of approval or disapproval of the proposal, and potential alternatives available. The special

committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 406.

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

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

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

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

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

(C) consider whether the Hanks building should be demolished to facilitate flood mitigation efforts and, if the commissioner so determines, demolish the building in accordance with the requirements of subdivision (4)(E) of this subsection (f). Otherwise, the commissioner may divest the state of Hanks by any manner described in subdivision (4)(A) of this subsection (f) subject to the requirements of subdivision (2)(A) of this subsection (f).

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

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

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

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

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

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

Sec. 4. HUMAN SERVICES

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

* * *

(2) Vermont state hospital, ongoing safety renovations: ~~100,000~~ 2,555

* * *

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

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

* * *

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

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

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

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

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

Sec. 5. JUDICIARY

* * *

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

Total Appropriation – Section 5 \$400,000 \$650,000

Sec. 6. Sec. 7 of No. 40 of the Acts of 2011 is amended to read:

Sec. 7. BUILDING COMMUNITIES GRANTS

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

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

* * *

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

* * *

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

* * *

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

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

Appropriation – FY 2012 \$1,350,000

Appropriation – FY 2013 ~~\$1,350,000~~ \$1,575,000

Total Appropriation – Section 7 ~~\$2,700,000~~ \$2,925,000

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

Sec. 8. EDUCATION

* * *

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

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

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

Sec. 10. UNIVERSITY OF VERMONT

* * *

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

* * *

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

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

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

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

Sec. 12. NATURAL RESOURCES

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

* * *

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

(A) Ecosystem restoration and protection: 2,500,000

(B) Waterbury waste treatment facility phosphorous removal:

~~2,700,000~~ 2,000,000

* * *

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

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

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

* * *

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

(2) the following projects:

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

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

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

* * *

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

* * *

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

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

Appropriation – FY 2012	\$14,221,713	<u>\$13,521,713</u>
Appropriation – FY 2013	\$11,683,540	<u>\$10,922,460</u>
Total Appropriation – Section 12	\$25,905,253	<u>\$24,444,173</u>

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

Sec. 14. PUBLIC SAFETY

* * *

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

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

* * *

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

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

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

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

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

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

Sec. 16. AGRICULTURE, FOOD AND MARKETS

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

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

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

Sec. 12. [Deleted]

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

Sec. 21. INFORMATION AND INNOVATION

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

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

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

Sec. 23. VERMONT INTERACTIVE TELEVISION

* * *

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

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

* * * Financing This Act * * *

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

Sec. 24. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

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

* * *

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

* * *

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

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

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

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

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

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

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

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

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

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

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

-
- (21) of the amount appropriated by Sec. 15 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Pittsford firing range): 416,904.16
- (22) of the amount appropriated by Sec. 19 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Vermont Veterans' Home, gas line replacement):
9,912.95
- (23) of the amount realized from the sale of property authorized by Sec. 32 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (Hartford property): 5,300.00
- (24) of the amount realized from the sale of property authorized by Sec. 25 of No. 43 of the Acts of 2009 (Vergennes, relinquishment of right-of-way): 2.00
- (25) of the amount realized from the sale of property authorized by Sec. 26 of No. 52 of the Acts of 2007 (Brandon Training School): 202,157.45
- (26) of the amount realized from the sale of property authorized by Sec. 25 of No. 43 of the Acts of 2009 (Dummerston Library): 44,000.00
- (27) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (water pollution control): 1,734.88
- (28) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (potable water supply construction): 43,608.59
- (29) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (water pollution control construction): 34,806.04
- (30) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water pollution): 25,674.00
- (31) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water pollution planning): 316.45
- (32) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water supply planning): 3,187.30
- (33) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water supply wastewater): 6,896.28
- (34) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water pollution): 207,433.00
- (35) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water pollution planning): 18,374.13

<u>(36) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water supply):</u>	<u>909.76</u>
<u>(37) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water supply planning):</u>	<u>7,709.44</u>
<u>(38) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (pollution control):</u>	<u>19,637.00</u>
<u>(39) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (pollution control planning):</u>	<u>7,919.79</u>
<u>(40) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (water supply):</u>	<u>27,840.43</u>
<u>(41) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (zebra mussel control):</u>	<u>61,613.96</u>
<u>(42) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (water supply):</u>	<u>17,697.03</u>
<u>(43) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (municipal grants):</u>	<u>8,508.92</u>
<u>(44) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (water pollution):</u>	<u>4,920.00</u>
<u>(45) of the amount appropriated by Sec. 10 of No. 185 of the Acts of the 1995 Adj. Sess. (1996) (Hinesburg project):</u>	<u>35,420.36</u>
<u>(46) of the amount appropriated by Sec. 18 of No. 62 of the Acts of 1997 (pollution control):</u>	<u>12,329.93</u>
<u>(47) of the amount appropriated by Sec. 18 of No. 62 of the Acts of 1997 (pollution control planning):</u>	<u>4,745.48</u>
<u>(48) of the amount appropriated by Sec. 13 of No. 29 of the Acts of 1999 (pollution control):</u>	<u>18,208.13</u>
<u>(49) of the amount appropriated by Sec. 13 of No. 29 of the Acts of 1999 (Shoreham project):</u>	<u>7,435.25</u>
<u>(50) of the amount appropriated by Sec. 15 of No 148 of the Acts of the 1999 Adj. Sess. (2000) (Bennington sewer project):</u>	<u>5,000.00</u>
<u>(51) of the amount appropriated by Sec. 10 of No. 121 of the Acts of the 2003 Adj. Sess. (2004)(state-owned dams):</u>	<u>7.70</u>
<u>(52) of the amount appropriated by Sec. 11 of No. 52 of the Acts of 2007 (phase II Bennington fish station):</u>	<u>95.93</u>

<u>(53) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (Historic Preservation Grant Program):</u>	<u>9,959.00</u>
<u>(54) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (Historic Barns Preservation Grant Program):</u>	<u>9,750.00</u>
<u>(55) of the amount appropriated by Sec. 20 of No. 43 of the Acts of 2009 (Vermont council on the arts cultural facility grant):</u>	<u>3,516.00</u>
<u>(56) of the amount appropriated by Sec. 6 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Vermont council on the arts cultural facility grant):</u>	<u>2,033.00</u>
<u>(57) of the amount appropriated by Sec. 7 of No. 40 of the Acts of 2011 (Vermont council on the arts cultural facility grant):</u>	<u>10,662.00</u>
<u>(58) of the amount appropriated by Sec. 11 of No. 161 of the Acts of the 2009 Adj. Session (2010) (Vermont Interactive TV Equipment):</u>	<u>0.32</u>
<u>(59) of the amount appropriated by Sec. 10 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (VSC - major maintenance):</u>	<u>0.28</u>
<u>(60) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (broadband development grant program):</u>	<u>50,000.00</u>
<u>(61) of the amount realized from the sale authorized by Sec. 25 of No. 43 of the Acts of 2009 (Former Tree Farm Property):</u>	<u>184,200.00</u>
<u>(62) of the amount appropriated by Sec. 1 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (ADA improvements):</u>	<u>47,020.92</u>
<u>(63) of the amount appropriated by Sec. 20 of the Acts of 2009 (human services and educational facilities competitive grant program):</u>	<u>10,904.00</u>
<u>(64) of the amount appropriated by Sec. 9 of No. 61 of the Acts of 2001 (pollution control and drinking water):</u>	<u>9,286.25</u>
<u>(65) of the amount appropriated by Sec. 10 of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (pollution control and drinking water):</u>	<u>31,070.58</u>
<u>(66) of the amount appropriated by Sec. 12 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (pollution control):</u>	<u>46,502.29</u>
<u>(67) of the amount appropriated by Sec. 9 of No. 43 of the Acts of 2009 (pollution control):</u>	<u>129,544.42</u>
<u>(68) of the amount appropriated by Sec. 12 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (pollution control):</u>	<u>33,596.46</u>
Reallocations and Transfers – FY 2012	\$1,579,398.51

Reallocations and Transfers – FY 2013	\$3,288,203.36
Total Reallocations and Transfers	<u>\$4,867,601.87</u>

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

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

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

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

* * *

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

(g) The secretary of agriculture, food and markets, the secretary of natural resources, the secretary of transportation, or the commissioner of buildings and general services, in consultation with the agency of commerce and community development, may sell, enter into a long-term lease of, and utilize surplus properties. The emergency board, the chair of the house committee on corrections and institutions, and the chair of the senate committee on

institutions shall determine what land or facilities are surplus for the purpose of this subsection when the general assembly is not in session. When the general assembly is in session, requests shall be made to the house committee on corrections and institutions and the senate committee on institutions.

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

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

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

§ 152. DUTIES OF COMMISSIONER

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

* * *

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

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

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

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

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

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

Sec. 32. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

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

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

* * *

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

* * *

* * * Transcription Errors * * *

Sec. 18. CORRECTION OF TRANSCRIPTION ERRORS

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

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

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

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

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

* * * Buildings and General Services * * *

Sec. 20. LOCATION OF STATE EMPLOYEES

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

Sec. 20a. LEASING PROPERTY

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

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

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

* * *

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

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

Sec. 22. [Deleted]

Sec. 23. RESTROOMS IN STATE BUILDINGS

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

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

§ 157. FACILITIES CONDITION ANALYSIS

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

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

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

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

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

Sec. 25. EMPLOYEE SERVICE MEMORIAL

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

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

Sec. 26. PARKING IN THE CAPITOL COMPLEX

(a) To reduce parking pressures for state employees in Montpelier and to meet Vermont's energy plan goals of reducing energy use in the transportation sector, the commissioner of buildings and general services shall review existing plans and reports including the Governor's Comprehensive Energy Plan and, in consultation with the agency of transportation and the department of human resources, create a parking management program. Any capital improvements shall be presented to the general assembly for approval.

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

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

Sec. 26a. CIVIL WAR MONUMENTS STUDY

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

Sec. 26b. RENAMING THE STATE ARCHIVES BUILDING

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

* * * Commerce and Community Development * * *

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

§ 155. HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND

(a) There is established a special fund managed by and under the authority and control of the commissioner, comprising net revenue from the sale or lease of underutilized state-owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the fund; provided, however, that if the fund balance exceeds \$250,000.00 as of November 15 in any year, then the general assembly shall reallocate ~~the excess funds not subject to encumbrances~~ for other purposes in the next enacted capital appropriations bill.

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

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

* * *

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

§ 5607. REGIONAL ECONOMIC DEVELOPMENT GRANT PROGRAM

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

consistent with the goals found in section 4302 of this title and local and regional plans adopted pursuant to this title.

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

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

§ 5601. BUILDING COMMUNITIES GRANTS

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

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

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

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

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

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

(c) Before it notifies an applicant of an award under this chapter, the ~~board or department~~ entity which administers the grant shall provide notice of the award and time and location of any award presentation to the chairs of the senate committee on institutions and the house committee on corrections and

institutions, and those members of the general assembly who represent the area in which a successful applicant resides.

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

* * * Agriculture * * *

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

§ 54. RENTAL OF BUILDING; DISPOSITION OF FUNDS

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

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

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

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

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the secretary of agriculture, food and markets for cost assistance. Using state

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

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

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

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

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

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

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

* * *

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

* * * Natural Resources * * *

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

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

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

* * *

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

* * *

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

§ 4763a. LOANS FOR POTABLE WATER SUPPLIES

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

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

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

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

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

(B) The applicant municipality certifies to the bond bank that the owner of the proposed potable water supply has secured all state and federal

permits, licenses, and approvals necessary to construct and operate the improvements to be financed by the loan.

* * * Capital Planning and Finance * * *

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

§ 168. STATE RESOURCE MANAGEMENT; REVOLVING FUND

* * *

(b) Revolving fund.

* * *

(2) The fund shall consist of:

* * *

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

* * *

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

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

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

* * *

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

* * *

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

§ 309. CAPITAL BUDGET REPORT

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

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

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

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

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

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

* * *

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

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

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

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

(1) Assessment and projection of need.

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

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

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

(ii) higher education;

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

(iv) transportation facilities.

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

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

(2) Comprehensive cost and financing assessment.

(A) Amounts appropriated and expended for the current fiscal year and for the preceding fiscal year shall be indicated for capital programs and for individual projects. The assessment shall indicate further the source of funds

for any project which required additional funding and a description of any authorized projects which were delayed.

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

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

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

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

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

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

§ 701a. CAPITAL CONSTRUCTION BILL

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

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

(c) ~~The sums appropriated and~~ spending authority authorized by a capital construction act shall ~~be continuing and shall not revert at the end of the fiscal year~~ carry forward until expended, unless otherwise provided. Any

unencumbered funds remaining after a two-year period shall be reported to the general assembly and may be reallocated in future capital construction acts.

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

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

§ 954. PROCEEDS

(a) The proceeds arising from the sale of such bonds, ~~except~~ inclusive of any premiums, shall be applied to the purposes for which they were authorized and such purposes shall be considered to include the expenses of preparing, issuing, and marketing such bonds and any notes issued under section 955 of this title, and amounts for reserves, but no purchasers of such bonds shall be in any way bound to see to the proper application of the proceeds thereof. The state treasurer shall pay the interest on, principal of, investment return on, and maturity value of such bonds and notes as the same fall due or accrue without further order or authority. ~~Any premium received upon the sale of such bonds or notes shall be applied to the payment of the first principal or interest to come due thereon.~~ The state treasurer with the approval of the governor, may establish sinking funds, reserve funds, or other special funds of the state as he or she may deem for the best interest of the state. To the extent not otherwise provided, the amount necessary each year to fulfill the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on all such bonds then outstanding shall be included in and made a part of the annual appropriation bill for the expense of state government, and such principal and interest on, investment return and maturity value of, and sinking fund installments on the bonds as may come due before appropriations for the fulfillment thereof have been made shall be fulfilled from the applicable debt service fund.

* * *

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

§ 962. PRIVATE USE COMPLIANCE, NOTICE AND APPROVAL

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

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

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

Notwithstanding any provision to the contrary in Title 9, the governor, in consultation with the state treasurer, shall have exclusive authority to grant any public approval required under Section 147(f)(2) of the Internal Revenue Code of 1986, as amended, pertaining to the proposed issuance of qualified private activity bonds when the purpose of the bonds is to finance or refinance purposes to be located within the state and the bonds are proposed by any issuers of qualified private activity bonds organized under the laws of a jurisdiction other than the state of Vermont. Approval shall not be withheld unless the governor, in consultation with the state treasurer, determines in good faith that the issuance is not financially sound.

* * * Judiciary and Corrections * * *

Sec. 37. JOINT COMMITTEE ON CORRECTIONS OVERSIGHT

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

(1) explore how criminal justice services are being delivered currently in the Northwest quadrant of the state. The committee's work shall include a review of the current facilities in the Northwest quadrant of the state, a determination of whether those facilities have sufficient space for their current populations and provide sufficient supports related to housing, parenting, mental health, substance abuse, trauma, education, and job training, and a recommendation for further action regarding current and future facilities in the Northwest quadrant of the state. In addition to

facilities, the committee shall also consider how criminal justice services generally are being delivered in the Northwest quadrant and whether there are any opportunities for improvement or collaboration to reduce the total number of individuals incarcerated. On or before January 15, 2013, the committee shall present its analysis together with any related proposals for legislation to the house and senate committees on judiciary and the house committee on corrections and institutions.

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

Sec. 37a. SUSTAINABLE PRISONS

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

Sec. 37b. [Deleted]

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

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

* * * Information Technology * * *

Sec. 39. INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDS

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

treasurer shall present a recommendation of any required statutory changes to the house committee on corrections and institutions and the senate committee on institutions on or before January 15, 2013.

* * * Education * * *

Sec. 39a. BRATTLEBORO AREA HIGHER EDUCATION COLLABORATIVE

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

* * * Capital Bill Definitions * * *

Sec. 40. DEFINITIONS

For purposes of this act:

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

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

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

Sec. 41. ENGINEERING COSTS

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

* * * Effective Dates and Statutory Revision * * *

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

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

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

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

Sec. 43. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Emmons of Springfield moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: In Sec. 2, amending Sec. 1 of No 40 of the Acts of 2011, in subdivision (b)(3), by striking “\$87,952,312” and inserting in lieu thereof “\$87,712,632”

Second: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, by adding subdivision (b)(14) to read:

(14) Newport, Northern State Correctional Facility,
maintenance shop: 350,000 110,320

* * *

Third: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (c)(8), house committee rooms, by striking “380,960” and inserting in lieu thereof “430,960”

Fourth: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (c)(9)(A), by striking “11,975,000” and inserting in lieu thereof “12,000,000”

Fifth: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (c)(9)(B)(i), by striking “4,975,000” and inserting in lieu thereof “5,000,000”

Sixth: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (f)(1)(B), by inserting “coordinated services delivered;” following “standards;”

Seventh: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in subdivision (f)(4)(A), by inserting “Stanley,” following “condition;” and by striking subdivision (f)(4)(D) in its entirety

Eighth: In Sec. 3, amending Sec. 2 of No. 40 of the Acts of 2011, in the FY 2012 and FY 2013 totals at the end of the section, by striking “\$26,178,802” and inserting in lieu thereof “\$25,939,122” and by striking “\$29,264,450” and inserting in lieu thereof “\$29,364,450” and by striking “\$55,443,252” and inserting in lieu thereof “\$55,303,572”

Ninth: In Sec. 4, amending Sec. 4 of No. 40 of the Acts of 2011, in subdivision (e)(2), by striking “and 10 V.S.A. chapter nine”

Tenth: By striking Sec. 6a, amending Sec. 8 of No. 40 of the Acts of 2011, reducing state aid for school construction, in its entirety and inserting in lieu thereof “[Deleted.]”

Eleventh: In Sec. 7a, adding a subsection (d) to Sec. 11 of No. 40 of the Act of 2011, by striking (d) and inserting in lieu thereof the following: “(d) If funds are allocated in any Acts of the 2011 Adj. Sess. (2012) other than an act relating to capital construction and state bonding budget adjustment for a new Community College of Vermont facility in Brattleboro and those funds are insufficient for the full cost of construction of the new facility, to the extent the \$153,160,000 of general obligation bonds authorized by Sec. 25 of this act can be reduced by the use of bond premiums, up to \$2,000,000 of the authorized amount that is no longer required to fund appropriations of this act as amended by capital budget adjustment shall be used to offset part of the construction cost. It is the intent of the general assembly that in the next biennium, any bond premium received shall be used to reduce state aid for school construction debt and shall be in addition to any regular capital appropriation for this purpose.”

Twelfth: In Sec. 8, amending Sec. 12 of No. 40 of the Acts of 2011, in subdivision (b)(1)(A), by striking “1,480,720” and inserting in lieu thereof “1,500,400” and in subdivision (b)(5)(E), by striking the “(E)” and inserting in lieu thereof “(6) the department of forest, parks and recreation”

Thirteenth: In Sec. 8, amending Sec. 12 of No. 40 of the Acts of 2011, in the FY 2013 and Total Appropriation totals at the end of the section, by striking “\$10,922,460” and inserting in lieu thereof “\$10,942,140” and by striking “\$24,444,173” and inserting in lieu thereof “\$24,463,853”

Fourteenth: By striking Sec. 12a, amending Sec. 21 of No. 40 of the Acts of 2011, Information and Innovation, in its entirety and inserting in lieu thereof “[Deleted.]” and by striking Sec. 12b, amending Sec. 23 of No. 40 of the Acts of 2011, Vermont Interactive Television, in its entirety and inserting in lieu thereof “[Deleted.]”

Fifteenth: In Sec. 13, amending Sec. 24 of No. 40 of the Acts of 2011, in subdivision (42), in the sum, by underlining the “1”

Sixteenth: In Sec. 13, amending Sec. 24 of No. 40 of the Acts of 2011, in subdivision (58), by striking “Session” and inserting in lieu thereof “Sess.”

Seventeenth: In Sec. 14, amending Sec. 26 of No. 40 of the Acts of 2011, in subsection (a), in the second sentence, by striking “\$81,0000” and inserting in lieu thereof “\$81,000” and by inserting “for other purposes” following “department”

Eighteenth: By striking Sec. 15a, amending 29 V.S.A. § 152, duties of the commissioner, in its entirety and inserting in lieu thereof “[Deleted.]”

Nineteenth: By striking Sec. 21, amending 29 V.S.A. § 165, in its entirety and inserting in lieu thereof “[Deleted.]”

Twentieth: By striking Sec. 22 in its entirety and inserting in lieu thereof the following:

Sec. 22. 29 V.S.A. § 44 is amended to read:

§ 44. FUNDS TRANSFER FOR ART

* * *

(b) Of the funds transferred under subsection (a) of this section, ~~\$7,500.00~~ \$5,000.00 shall be available for use by the council for the expenses of administering this chapter.

* * *

Twenty-first: In Sec. 26, Parking in the Capitol Complex, in subsection (a), at the end of the first sentence, following the word “program,” by inserting “subject to the collective bargaining rights of executive and judiciary employees. The program may include a pilot program designed to encourage employees of the executive, judiciary, and legislative branches of government working in Montpelier to use alternative means of transportation”

Twenty-second: In Sec. 26a, Civil War Monuments Study, in the second sentence, by striking “its” and inserting in lieu thereof “the”

Twenty-third: In Sec. 27a, adding 24 V.S.A. § 5607, in subsection (a), by deleting “to regional economic development corporations” and, in the last sentence of subsection (a), before the period by inserting “and shall be coordinated with the efforts described in chapter 76a of this title” before the period

Twenty-fourth: In Sec. 27a, adding 24 V.S.A. § 5607, in subsection (b), by striking “secretary of administration” and inserting in lieu thereof “commissioner of economic, housing and community affairs”

Twenty-fifth: In Sec. 28d, amending 6 V.S.A. § 4828, by striking subsection (d) in its entirety and insert in lieu thereof “[Repealed.]”

Twenty-sixth: In Sec. 37a, Sustainable Prisons, in the first sentence, by striking “and to provide educational and green job training to inmates” and by striking the second sentence in its entirety and inserting a new second sentence to read:

“On or before January 15, 2013, the commissioners of buildings and general services and of corrections shall report on the feasibility of providing educational and green jobs training as part of this effort.”

Which was agreed to.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

S. 189

Senate bill, entitled

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

H. 464

House bill, entitled

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

H. 785

House bill, entitled

An act relating to capital construction and state bonding budget adjustment

Recess

At twelve o'clock noon, the Speaker declared a recess until two o'clock and thirty minutes in the afternoon.

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

Proposal of Amendment Agreed to; Third Reading Ordered**S. 200**

Rep. Copeland-Hanzas of Bradford, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to the reporting requirements of health insurers

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. § 9414a is added to read:

§ 9414a. ANNUAL REPORTING BY HEALTH INSURERS

(a) Health insurers with a minimum of 5,000 Vermont lives covered at the end of the preceding year or who offer insurance through the Vermont health benefit exchange pursuant to 33 V.S.A. chapter 18, subchapter 1 shall annually report the following information to the commissioner of financial regulation, in plain language, as an addendum to the health insurer's annual statement:

(1) the health insurer's state of domicile and the total number of states in which the insurer operates;

(2) the total number of Vermont lives covered by the health insurer;

(3) the total number of claims submitted to the health insurer;

(4) the total number of claims denied by the health insurer;

(5) the total number of denials of service by the health insurer at the preauthorization level, including:

(A) the total number of denials of service at the preauthorization level appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

(B) the total number of denials of service at the preauthorization level appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

(C) the total number of denials of service at the preauthorization level for which external review was sought and, of those, the total number overturned;

(6) the total number of adverse benefit determinations made by the health insurer, including:

(A) the total number of adverse benefit determinations appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

(B) the total number of adverse benefit determinations appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

(C) the total number of adverse benefit determinations for which external review was sought and, of those, the total number overturned;

(7) the total number of claims denied by the health insurer because the service was experimental, investigational, or an off-label use of a drug, was not medically necessary, involved access to a provider that is inconsistent with the limitations imposed by the plan, or was subject to a preexisting condition exclusion;

(8) the total number of claims denied by the health insurer as duplicate claims, as coding errors, or for services or providers not covered;

(9)(A) the names, positions, and salaries of all corporate officers and board members during the preceding year;

(B) the bonuses and compensatory benefits of all corporate officers and board members during the preceding year;

(10) the health insurer's marketing and advertising expenses during the preceding year;

(11) the health insurer's federal and Vermont-specific lobbying expenses during the preceding year;

(12) the amount and recipient of each political contribution made by the health insurer during the preceding year;

(13) the amount and recipient of dues paid during the preceding year by the health insurer to trade groups that engage in lobbying efforts or that make political contributions;

(14) the health insurer's legal expenses related to claims or service denials during the preceding year; and

(15) the amount and recipient of charitable contributions made by the health insurer during the preceding year.

(b) Health insurers may indicate the extent of overlap or duplication in reporting the information described in subsection (a) of this section.

(c) The department of financial regulation shall create a standardized form using terms with uniform, industry-standard meanings for the purpose of collecting the information described in subsection (a) of this section, and each health insurer shall use the standardized form for reporting the required information as an addendum to its annual statement. To the extent possible, health insurers shall report information specific to Vermont on the standardized form and shall indicate on the form where the reported information is not specific to Vermont.

(d)(1) The department of financial regulation shall post on its website the standardized form completed by each health insurer pursuant to this section.

(2) The department of Vermont health access shall post on the Vermont health benefit exchange established pursuant to 33 V.S.A. chapter 18, subchapter 1 an electronic link to the standardized forms posted by the department of financial regulation pursuant to subdivision (1) of this subsection.

(e) The commissioner of financial regulation may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this act.

Sec. 2. INTERIM WORKING GROUP ON INSURANCE FILINGS

(a) The department of financial regulation shall convene a working group on consumer-oriented insurance filings for the purpose of assessing and making recommendations to improve the accessibility and comprehensibility of filings required of health insurers by this act.

(b) The working group shall be composed of the following members:

(1) the commissioner of financial regulation or designee, who shall serve as facilitator;

(2) the state health care ombudsman;

(3) a representative of a consumer advocacy group, appointed by the commissioner of financial regulation; and

(4) two individuals representing the interests of Vermont's insurance industry, appointed by the commissioner of financial regulation.

(c)(1) The working group established by this section shall study the content and availability of filings required of health insurers by this act, including:

(A) the type of information currently disclosed, the format of such disclosures, and the accessibility of reported information to consumers; and

(B) the presentation of the reported information with regard to clarity and ease of consumer comprehension.

(2) The working group shall make recommendations for improving the format, content, accessibility, and delivery of filings required of health insurers by this act in a manner that enhances consumer comprehension and empowers informed decision-making.

(3) The working group shall submit a detailed report of its findings and recommendations to the senate committee on health and welfare and the house committee on health care on or before January 15, 2014. Where appropriate, the working group's recommendations shall include specific suggestions for administrative and legislative action, including additional information that should be reported by health insurers and how "lives covered," as used in 18 V.S.A. § 9414a(a)(2), should be defined.

(4) For the purposes of its study of these issues, the working group shall have administrative support from the department of financial regulation.

(d) The working group on consumer-oriented insurance filings shall cease to exist on January 31, 2014.

Sec. 3. 18 V.S.A. § 9421 is redesignated to read:

§ 9421. PHARMACY BENEFIT MANAGEMENT; REGISTRATION;
INSURER AUDIT OF PHARMACY BENEFIT MANAGER
ACTIVITIES

Sec. 4. 18 V.S.A. chapter 79 is added to read:

CHAPTER 79. PHARMACY AUDITS

§ 3801. DEFINITIONS

As used in this subchapter:

(1)(A) "Health insurer" shall have the same meaning as in section 9402 of this title and shall include:

(i) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(ii) an employer, a labor union, or another group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont; and

(iii) except as otherwise provided in section 3805 of this title, the state of Vermont and any agent or instrumentality of the state that offers, administers, or provides financial support to state government.

(B) The term “health insurer” shall not include Medicaid, the Vermont health access plan, Vermont Rx, or any other Vermont public health care assistance program.

(2) “Health plan” means a health benefit plan offered, administered, or issued by a health insurer doing business in Vermont.

(3) “Pharmacy” means any individual or entity licensed or registered under 26 V.S.A. chapter 36.

(4) “Pharmacy benefit management” means an arrangement for the procurement of prescription drugs at a negotiated rate for dispensation within this state to beneficiaries, the administration or management of prescription drug benefits provided by a health plan for the benefit of beneficiaries, or any of the following services provided with regard to the administration of pharmacy benefits:

(A) mail service pharmacy;

(B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;

(C) clinical formulary development and management services;

(D) rebate contracting and administration;

(E) certain patient compliance, therapeutic intervention, and generic substitution programs; and

(F) disease or chronic care management programs.

(5) “Pharmacy benefit manager” means an entity that performs pharmacy benefit management. The term includes a person or entity in a contractual or employment relationship with an entity performing pharmacy benefit management for a health plan.

(6) “Responsible party” means the entity, including a health insurer or pharmacy benefit manager, responsible for payment of claims for health care services other than:

(A) the individual to whom the health care services were rendered;

(B) that individual's guardian or legal representative; or

(C) the agency of human services, its agents, and contractors.

§ 3802. PHARMACY RIGHTS DURING AN AUDIT

Notwithstanding any provision of law to the contrary, whenever a health insurer, a third-party payer, or an entity representing a responsible party conducts an audit of the records of a pharmacy, the pharmacy shall have a right to all of the following:

(1) To have an audit involving clinical or professional judgment be conducted by a pharmacist licensed to practice pharmacy in one or more states, who has at least a familiarity with Vermont pharmacy statutes and rules and who is employed by or working with an auditing entity.

(2) If an audit is to be conducted on-site at a pharmacy, the entity conducting the audit:

(A) shall give the pharmacy at least 14 days' advance written notice of the audit and the specific prescriptions to be included in the audit; and

(B) may not audit a pharmacy on Mondays or on weeks containing a federal holiday, unless the pharmacy agrees to alternative timing for the audit.

(3) Not to have an entity audit claims that:

(A) were submitted to the pharmacy benefit manager more than 18 months prior to the date of the audit, unless:

(i) required by federal law; or

(ii) the originating prescription was dated within the 24-month period preceding the date of the audit; or

(B) exceed 200 selected prescription claims.

(4) To have auditors enter the prescription department only when accompanied by or authorized by a member of the pharmacy staff, and not to have auditors disrupt the provision of services to the pharmacy's customers.

(5) Not to have clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors, on a required document or record deemed fraudulent in the absence of any financial harm or other evidence; provided that this subdivision shall not be construed to prohibit recoupment of actual fraudulent payments.

(6) If required under the terms of the contract, to have the auditing entity provide to the pharmacy, upon request, all records related to the audit in an electronic or digital media format.

(7) In order to validate a pharmacy record with respect to a prescription or refill, to have the properly documented records of a hospital or of any person authorized by law to prescribe medication transmitted by any means of communication.

(8) To use any prescription that meets the requirements to be a legal prescription under Vermont law, including prescriber notations such as “as directed” and “as needed” which require the professional judgment of the pharmacist to determine that the dose dispensed is within normal guidelines, to validate claims submitted for reimbursement for dispensing of original and refill prescriptions, or changes made to prescriptions.

(9) To dispense and receive reimbursement for the full quantity of the smallest commonly available commercially packaged product, including eye drops, insulin, and topical products, that contains the total amount required to be dispensed to meet the days’ supply ordered by the prescriber, even if the full quantity of the commercially prepared package exceeds the maximum days’ supply allowed.

(10) To determine the days’ supply using the highest daily total dose that may be utilized by the patient pursuant to the prescriber’s directions, and for prescriptions with a titrated dose schedule, to use the schedule to determine the days’ supply.

(11) To be subject to recoupment only following the correction of a claim and to have recoupment limited to amounts paid in excess of amounts payable under the corrected claim.

(12) Not to have a demand for recoupment, repayment, or offset against future reimbursement for overpayment of a claim for dispensing of an original or refill prescription include the dispensing fee, unless the prescription that is the subject of the claim was not actual dispensed, was not valid, was fraudulent, or was outside the provisions of the contract; provided that this subdivision shall not apply if a pharmacy is required to correct an error in a claim submitted in good faith.

(13) Unless otherwise agreed to by contract, not to have an audit finding or demand for recoupment, repayment, or offset against future reimbursement made for any claim for dispensing of an original or refill prescription due to information missing from a prescription or to information not placed in a particular location when the information or location is not required or specified by state or federal law. The pharmacy shall be allowed 30 days to document and correct the missing information.

(14) In the event the actual quantity dispensed on a valid prescription for a covered beneficiary exceeded the allowable maximum days' supply of the product as defined in the contract, to have the amount to be recouped, repaid, or offset against future reimbursement limited to an amount calculated based on the quantity of the product dispensed found to be in excess of the allowed days' supply quantity and using the cost of the product as reflected on the original claim.

(15) Not to have the accounting practice of extrapolation used in calculating any recoupment or penalty, unless otherwise required by federal law or by federal health plans.

(16) Except for cases of federal Food and Drug Administration regulation or drug manufacturer safety programs, to be free of recoupments based on either:

(A) documentation requirements in addition to or in excess of state board of pharmacy documentation creation or maintenance requirements; or

(B) a requirement that a pharmacy or pharmacist perform a professional duty in addition to or in excess of state board of pharmacy professional duty requirements.

(17) Except for Medicare claims, to be subject to reversals of approval for drug, prescriber, or patient eligibility upon adjudication of a claim only in cases in which the pharmacy obtained the adjudication by fraud or misrepresentation of claim elements.

(18) To be audited under the same standards and parameters as other similarly situated pharmacies audited by the same entity.

(19) To have the preliminary audit report delivered to the pharmacy within 60 days following the conclusion of the audit.

(20) To have at least 30 days following receipt of the preliminary audit report to produce documentation to address any discrepancy found during the audit.

(21) To have a final audit report delivered to the pharmacy within 120 days after the end of the appeals period, as required by section 3803 of this title.

(22) Except for audits initiated to address an identified problem, to be subject to no more than one audit per calendar year, unless fraud or misrepresentation is reasonably suspected.

(23) Not to have audit information from an audit conducted by one auditing entity shared with or utilized by another auditing entity, except as required by state or federal law.

§ 3803. APPEALS

(a) An entity that audits a pharmacy shall provide the pharmacy with a preliminary audit report, which shall be delivered to the pharmacy or to its corporate office of record within 60 days following completion of the audit.

(b) A pharmacy shall have 30 days following receipt of the preliminary audit report in which to respond to questions, provide additional documentation, and comment on and clarify audit findings. Receipt of the report shall be based on the date postmarked on the envelope or the date of a computer transmission, if transferred electronically.

(c) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow the pharmacy to resubmit the claim using any commercially reasonable method, including U.S. mail, facsimile, or electronic claims submission, as long as the period of time during which a claim may be resubmitted has not expired.

(d) Within 120 days after the completion of the appeals process established by this section, a final audit report shall be delivered to the pharmacy or to its corporate office of record. The final audit report shall include a disclosure of any funds recovered by the entity that conducted the audit.

(e) An entity that audits a pharmacy shall have in place a written appeals process by which a pharmacy may appeal the preliminary audit report and the final audit report, and shall provide the pharmacy with notice of the appeals process.

(f) A pharmacy shall be entitled to request a mediator agreed upon by both parties to resolve any disagreements; such request shall not be deemed to waive any existing rights of appeal.

§ 3804. PHARMACY AUDIT RECOUPMENTS

(a) Recoupment of any disputed funds shall occur only after the final internal disposition of an audit, including the appeals process set forth in section 3803 of this title.

(b) An entity conducting an audit may not:

(1) Include dispensing fees in calculations of overpayments unless the prescription is determined to have been dispensed in error.

(2) Recoup funds for clerical or recordkeeping errors, including typographical errors, scribes' errors, and computer errors on a required document or record unless the error resulted in overpayment or the entity conducting the audit has evidence that the pharmacy's actions reasonably indicate fraud or other intentional or willful misrepresentation.

(3) Collect any funds, charge-backs, or penalties until the audit and all appeals are final, unless the entity conducting the audit is alleging fraud or other intentional or willful misrepresentation.

(4) Recoup an amount in excess of the actual overpayment.

(c) Recoupment on an audit shall be refunded to the responsible party as contractually agreed upon by the parties.

(d) The entity conducting the audit may charge or assess the responsible party, directly or indirectly, based on amounts recouped if both of the following conditions are met:

(1) the responsible party and the entity conducting the audit have entered into a contract that explicitly states the percentage charge or assessment to the responsible party; and

(2) a commission or other payment to an agent or employee of the entity conducting the audit is not based, directly or indirectly, on amounts recouped.

§ 3805. APPLICABILITY

The provisions of this chapter shall not apply to any audit or investigation undertaken by any state agency, including the office of the attorney general or the agency of human services, to a fiscal agent of the state, or to any audit, review, or investigation that involves alleged Medicaid fraud, Medicaid waste, Medicaid abuse, insurance fraud, or criminal fraud or misrepresentation.

Sec. 5. 24 V.S.A. § 2689 is added to read:

§ 2689. REIMBURSEMENT FOR AMBULANCE SERVICE PROVIDERS

(a) When an ambulance service provides emergency medical treatment to a person who is insured by a policy, plan, or contract that provides benefits for emergency medical treatment, the insurer shall reimburse the ambulance service directly, subject to the terms and conditions of the policy, plan, or contract.

(b) Nothing in this section shall be construed to interfere with coordination of benefits or to require a health insurer to provide coverage for services not otherwise covered under the insured's policy, plan, or contract.

(c) Nothing in this section shall preclude an insurer from negotiating with and subsequently entering into a contract with a nonparticipating ambulance service to establish rates of reimbursement for emergency medical treatment.

Sec. 6. EFFECTIVE DATES

(a) Secs. 1 and 2 of this act and this section shall take effect on July 1, 2012, and reporting by health insurers shall begin with the annual statement due under Title 8 for calendar year 2012.

(b) Secs. 3 and 4 of this act shall take effect on July 1, 2012 and shall apply to contracts entered into or renewed on and after that date.

(c) Sec. 5 of this act shall take effect on July 1, 2012.

and that after passage the title of the bill be amended to read: “An act relating to pharmacy audits, reimbursement for ambulance services, and the reporting requirements of health insurers”

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

Pending the question, Shall the bill be read a third time? **Rep. Fisher of Lincoln** 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 bill be read a third time? was decided in the affirmative. Yeas, 135. Nays, 1.

Those who voted in the affirmative are:

Acinapura of Brandon	Condon of Colchester	Ellis of Waterbury
Ancel of Calais	Conquest of Newbury	Emmons of Springfield
Andrews of Rutland City	Consejo of Sheldon	Evans of Essex
Atkins of Winooski	Copeland-Hanzas of	Fagan of Rutland City
Bartholomew of Hartland	Bradford	Fisher of Lincoln
Batchelor of Derby	Corcoran of Bennington	Frank of Underhill
Bissonnette of Winooski	Courcelle of Rutland City	French of Randolph
Bohi of Hartford	Crawford of Burke	Grad of Moretown
Botzow of Pownal	Dakin of Chester	Greshin of Warren
Bouchard of Colchester	Davis of Washington	Haas of Rochester
Branagan of Georgia	Deen of Westminster	Head of South Burlington
Brennan of Colchester	Degree of St. Albans City	Heath of Westford
Browning of Arlington	Devereux of Mount Holly	Hebert of Vernon
Burke of Brattleboro	Dickinson of St. Albans	Helm of Fair Haven
Buxton of Tunbridge	Town	Higley of Lowell
Campion of Bennington	Donaghy of Poultney	Hooper of Montpelier
Canfield of Fair Haven	Donahue of Northfield	Howard of Cambridge
Cheney of Norwich	Donovan of Burlington	Howrigan of Fairfield
Christie of Hartford	Eckhardt of Chittenden	Hubert of Milton
Clarkson of Woodstock	Edwards of Brattleboro	Jerman of Essex

Jewett of Ripton	Martin of Wolcott	Russell of Rutland City
Johnson of South Hero	Masland of Thetford	Savage of Swanton
Johnson of Canaan	McAllister of Highgate	Scheuermann of Stowe
Keenan of St. Albans City	McCullough of Williston	Shand of Weathersfield
Kitzmiller of Montpelier	McFaun of Barre Town	Sharpe of Bristol
Klein of East Montpelier	McNeil of Rutland Town	Shaw of Pittsford
Koch of Barre Town	Miller of Shaftsbury	Smith of New Haven
Krebs of South Hero	Mook of Bennington	Spengler of Colchester
Krowinski of Burlington	Moran of Wardsboro	Stevens of Waterbury
Kupersmith of South Burlington	Mrowicki of Putney	Stevens of Shoreham
Lanpher of Vergennes	Munger of South Burlington	Strong of Albany
Larocque of Barnet	Myers of Essex	Stuart of Brattleboro
Lawrence of Lyndon	Nuovo of Middlebury	Sweaney of Windsor
Lenes of Shelburne	O'Sullivan of Burlington	Taylor of Barre City
Leriche of Hardwick	Partridge of Windham	Till of Jericho
Lewis of Berlin	Pearce of Richford	Townsend of Randolph
Lewis of Derby	Pearson of Burlington	Trieber of Rockingham
Lippert of Hinesburg	Peaslee of Guildhall	Turner of Milton
Lorber of Burlington	Peltz of Woodbury	Waite-Simpson of Essex
Macaig of Williston	Perley of Enosburgh	Webb of Shelburne
Malcolm of Pawlet	Poirier of Barre City	Wilson of Manchester
Manwaring of Wilmington	Potter of Clarendon	Winters of Williamstown
Marcotte of Coventry	Pugh of South Burlington	Wizowaty of Burlington
Marek of Newfane	Ralston of Middlebury	Yantachka of Charlotte
Martin of Springfield	Ram of Burlington	Young of Glover
	Reis of St. Johnsbury	Zagar of Barnard

Those who voted in the negative are:

Burditt of West Rutland *

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

Aswad of Burlington	Komline of Dorset	Toll of Danville
Clark of Vergennes	Morrissey of Bennington	Woodward of Johnson
French of Shrewsbury	O'Brien of Richmond	Wright of Burlington
Gilbert of Fairfax	Olsen of Jamaica	
Kilmartin of Newport City	South of St. Johnsbury	

Rep. Burditt of West Rutland explained his vote as follows:

“Mr. Speaker:

The names, positions, salaries, bonuses, and compensatory benefits are none of our business. What industry is next!”

Senate Proposal of Amendment Concurred in**H. 550**

The Senate proposed to the House to amend House bill, entitled
An act relating to the Vermont administrative procedure act

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

Sec. 1. 3 V.S.A. § 844 is amended to read:

§ 844. EMERGENCY RULES

* * *

(d) Emergency rules adopted under this section shall include:

(1) as much of the information required for the filing of a proposed rule as is practicable under the circumstances; and

(2) a signed and dated statement by the adopting authority explaining the nature of the imminent peril to the public health, safety, or welfare and approving of the contents of the rules.

~~(e)~~(1) On a majority vote of the entire committee, the committee may object under this subsection if an emergency rule is:

~~(1)~~(A) beyond the authority of the agency;

~~(2)~~(B) contrary to the intent of the legislature;

~~(3)~~(C) arbitrary; or

~~(4)~~(D) not necessitated by an imminent peril to public health, safety, or welfare sufficient to justify adoption of an emergency rule.

(2) When objection is made under this subsection, on majority vote of the entire committee, the committee may file the objection in certified form with the secretary of state. The objection shall contain a concise statement of the committee's reasons for its action. The secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency. After a committee objection is filed with the secretary under this subsection, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the legislature, is not arbitrary, and is justified by an imminent peril to the public health, safety, or welfare. If the agency fails to meet its burden of proof,

the court shall declare the whole or portion of the rule objected to invalid. The failure of the committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

(3) When the committee makes an objection to an emergency rule under this subsection, the agency may withdraw the rule to which an objection was made. Prior to withdrawal, the agency shall give notice to the committee of its intent to withdraw the rule. A rule shall be withdrawn upon the filing of a notice of withdrawal with the secretary of state and the committee. If the emergency rule amended an existing rule, upon withdrawal of the emergency rule, the existing rule shall revert to its original form, as though the emergency rule had never been adopted.

Sec. 2. 3. V.S.A. § 817 is amended to read:

§ 817 LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

* * *

(d) In addition to its powers under section 842 of this title concerning rules, the committee may, in similar manner, conduct public hearings, object, and file objections concerning existing rules. A rule reviewed under this subsection shall remain in effect until amended or repealed.

(e) At any time following its consideration of a final proposal under section 841 of this title, the committee, by majority vote of the entire committee, may request that any standing committees of the general assembly review the issues or questions presented therein which are outside the jurisdiction of the committee but are within the jurisdiction of the standing committees. On receiving a request for review under this subsection, a standing committee may at its discretion review the issues or questions and act on them. The committee's request for review shall not affect the review or review period of a final proposal.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 484

The Senate proposed to the House to amend House bill, entitled

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

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

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

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

Which proposal of amendment was considered and concurred in.

Recess

At three o'clock and fifteen minutes in the afternoon, the Speaker declared a recess until five o'clock in the afternoon.

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

Adjournment

At five o'clock and six minutes in the afternoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.