

Journal of the House

Thursday, May 3, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Ann Donahue of Northfield, VT.

Bill Referred to Committee on Appropriations

S. 180

Senate bill, entitled

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

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Adopted

J.R.H. 39

Joint resolution requesting major lending institutions to appoint a single ombudsman to work with victims of the spring 2011 flood and Tropical Storm Irene

Offered by: Representatives Christie of Hartford, Bissonnette of Winooski, Bohi of Hartford, Botzow of Pownal, Buxton of Tunbridge, Cheney of Norwich, Clarkson of Woodstock, Conquest of Newbury, Consejo of Sheldon, Courcelle of Rutland City, Donovan of Burlington, Fagan of Rutland City, Frank of Underhill, French of Shrewsbury, Jerman of Essex, Jewett of Ripton, Komline of Dorset, Martin of Springfield, Martin of Wolcott, McNeil of Rutland Town, Poirier of Barre City, Ralston of Middlebury, Russell of Rutland City, Savage of Swanton, Shand of Weathersfield, Stuart of Brattleboro, Till of Jericho, Webb of Shelburne, Yantachka of Charlotte and Zagar of Barnard

Whereas, 2011 marked a difficult year for Vermont homeowners, as many homes were destroyed during either the spring flooding or Tropical Storm Irene, and

Whereas, as a result of this destruction, some Vermont families have been rebuilding or purchasing new homes, and

Whereas, because payments from the Federal Emergency Management Agency and homeowner's insurance often do not cover the entire cost of housing replacement, homeowners must frequently turn to state and federally regulated lending institutions to complete their financing packages, and

Whereas, in developing their financing packages, some Vermonters have experienced frustration in working with the larger lending institutions, and

Whereas, officials from the department of financial regulation and the Vermont Bankers Association have attempted to assist Vermonters in their dealings with larger lending institutions with a degree of success, and

Whereas, one of the nation's largest lending institutions, Bank of America, has appointed a customer advocate in the office of the bank's president, and

Whereas, the Bank of America's customer advocate has worked directly with Vermonters and state officials from the department of financial regulation to solve problems associated with home reconstruction financing, and

Whereas, if more major lending institutions were to follow the lead of Bank of America and appoint a designated ombudsman to work with Vermonters developing post-flood and -Irene home reconstruction financing, it would greatly reduce the difficulties associated with this complex process, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests major lending institutions to appoint a single ombudsman to work with victims of the spring 2011 flood and Tropical Storm Irene, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the department of financial regulation, the Vermont Bankers Association, and the American Bankers Association.

Was taken up and adopted on the part of the House.

Committee of Conference Appointed

H. 778

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on House bill, entitled

An act relating to structured settlements

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Koch of Barre Town
Rep. Waite-Simpson of Essex
Rep. French of Shrewsbury

Message from the Senate No. 71

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 794. An act relating to the management of search and rescue operations.

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

The Governor has informed the Senate that on the second day of May, 2012, he approved and signed a bill originating in the Senate of the following title:

S. 209. An act relating to naturopathic physicians.

Recess

At ten o'clock and five minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

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

Committee of Conference Addendum Adopted

S. 199

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program

Respectfully reported that it has met and considered the same and recommended that the House Proposal of Amendment be further amended as follows:

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

Sec. 1. 18 V.S.A. § 1121 is amended to read:

§ 1121. IMMUNIZATIONS REQUIRED PRIOR TO ATTENDING
SCHOOL AND CHILD CARE FACILITIES

* * *

(c) To the extent permitted under the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191, all schools and child care facilities shall make publicly available the aggregated immunization rates of the student body for each required vaccine using a standardized form that shall be created by the department of health. Each school and child care facility shall annually, on or before January 1, submit its standardized form containing the student body's aggregated immunization rates to the department of health. Notwithstanding section 1120 of this title, for the purposes of this subsection only, the term "child care facility" shall exclude a family day care home licensed or registered under 33 V.S.A. chapter 35.

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

Sec. 2. 18 V.S.A. § 1122 is amended to read:

§ 1122. EXEMPTIONS

(a) ~~A Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in the child care facility without a required immunization:~~

(1) ~~If the person; or, in the case of a minor, the person's parent or guardian presents a written statement, from~~ form created by the department and signed by a licensed health care practitioner authorized to prescribe vaccines or a health clinic, or nurse stating that the person is in the process of being immunized. The person may continue to attend school or the child care facility as long as for up to six months while the immunization process is being accomplished;

(2) If a health care practitioner, licensed to practice in Vermont and authorized to prescribe vaccines, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not

appropriate; provided that when a particular vaccine is no longer contraindicated, the person shall be required to receive the vaccine; or

(3) If the person, or, in the case of a minor, the person's parent or guardian states in writing annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health that the person, parent, or guardian:

(A) has holds religious beliefs or philosophical personal convictions opposed to immunization;

(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations, including information about the risks and benefits of immunization;

(C) understands that failure to complete the required immunization schedule increases the risk to the person and others of contracting or carrying a vaccine-preventable infectious disease; and

(D) understands that there are persons with special health needs attending schools and child care facilities who are unable to be immunized or who are at heightened risk of contracting a vaccine-preventable communicable disease and for whom such a disease could be life-threatening.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

(c) A form signed pursuant to subdivision (a)(3) of this section and the fact that such a form was signed shall not be:

(1) construed to create or deny civil liability for any person; or

(2) admissible as evidence in any civil proceeding.

(d) In the event the immunization rate for measles, mumps, rubella (MMR); diphtheria, tetanus, pertussis (DTaP); or tetanus, diphtheria, pertussis (Tdap) drops below a threshold of 90 percent statewide, the commissioner of health shall suspend use of personal exemptions for the applicable vaccine by persons enrolled in schools in the state. The suspension shall apply beginning at the start of the academic year following the department's determination. At least two months prior to the start of an academic year in which the suspension shall apply, schools shall provide written notice of the department's determination to each current and incoming student in the state or, in the case of a minor, to the person's parent or guardian. The suspension of personal exemptions shall terminate once the immunization rate for the applicable

vaccine in question has remained above a 90-percent threshold statewide for three consecutive academic years.

Third: In Sec. 3, 18 V.S.A. § 1124, subdivision (a), in the second sentence by striking the word “philosophical” and inserting in lieu thereof “personal”

Fourth: By inserting after Sec. 5, REPORT, a new section to read as follows:

Sec. 6. INTERIM WORKING GROUP ON PROTECTING

IMMUNOCOMPROMISED STUDENTS AND STUDENTS WITH
SPECIAL HEALTH NEEDS

(a) The departments of education and of health shall convene a working group on how to protect immunocompromised students and students with special health needs, which shall study the feasibility of allowing these students to enroll in a public school maintained by an adjoining school district, where the adjoining school district has a higher immunization rate than the school maintained by the student’s school district of residence. For the purpose of protecting immunocompromised students and students with special health needs, the working group shall also assess the necessity and practicability of requiring adults employed at schools to be fully immunized. The working group shall submit a 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 1, 2013.

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

(1) the commissioner of education or designee, who shall serve as co-chair;

(2) the commissioner of health or designee, who shall serve as co-chair;

(3) one medical professional with training or experience treating immunocompromised patients, appointed by the commissioner of health;

(4) one medical professional specializing in pediatric care, appointed by the commissioner of health;

(5) the executive director of the Vermont Superintendents Association; and

(6) a member of the Vermont-National Education Association.

(c) For the purposes of its study, the working group shall have joint administrative support from the departments of education and of health.

(d) The working group on protecting immunocompromised students shall cease to exist on January 31, 2013.

and by renumbering Sec. 5, EFFECTIVE DATE, to be Sec. 7

Fifth: In the newly renumbered Sec. 7, EFFECTIVE DATE, in the title, by striking “DATE” and inserting in lieu thereof “DATES”, and before the period by inserting the phrase “, except that Sec. 2(d) shall take effect one year thereafter”

REP. MICHAEL FISHER
 REP. KRISTY K. SPENGLER
 REP. GEORGE W. TILL
 COMMITTEE ON THE PART OF THE HOUSE

SEN. KEVIN J. MULLIN
 SEN. CLAIRE D. AYER
 COMMITTEE ON THE PART OF THE SENATE

Pending the question, Shall the House adopt the report of the Committee of Conference? **Rep. Fisher of Lincoln** moved that the House adopt the Addendum to the Committee of Conference report, as follows:

That the Report of the Committee of Conference be rescinded and the bill be amended by striking all after the enacting clause and inserting in lieu thereof:

Sec. 1. 18 V.S.A. § 1121 is amended to read:

§ 1121. IMMUNIZATIONS REQUIRED PRIOR TO ATTENDING
 SCHOOL AND CHILD CARE FACILITIES

* * *

(c) To the extent permitted under the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191, all schools and child care facilities shall make publicly available the aggregated immunization rates of the student body for each required vaccine using a standardized form that shall be created by the department of health. Each school and child care facility shall annually, on or before January 1, submit its standardized form containing the student body’s aggregated immunization rates to the department of health. Notwithstanding section 1120 of this title, for the purposes of this subsection only, the term “child care facility” shall exclude a family day care home licensed or registered under 33 V.S.A. chapter 35.

Sec. 2. 18 V.S.A. § 1122 is amended to read:

§ 1122. EXEMPTIONS

(a) A Notwithstanding subsections 1121(a) and (b) of this title, a person may remain in school or in the child care facility without a required immunization:

(1) If the person, or, in the case of a minor, the person's parent or guardian presents a ~~written statement, from~~ form created by the department and signed by a licensed health care practitioner authorized to prescribe vaccines or a health clinic, or nurse stating that the person is in the process of being immunized. The person may continue to attend school or the child care facility as long as for up to six months while the immunization process is being accomplished;

(2) If a health care practitioner, licensed to practice in Vermont and authorized to prescribe vaccines, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate, provided that when a particular vaccine is no longer contraindicated, the person shall be required to receive the vaccine; or

(3) If the person, or, in the case of a minor, the person's parent or guardian states in writing annually provides a signed statement to the school or child care facility on a form created by the Vermont department of health that the person, parent, or guardian:

(A) has holds religious beliefs or philosophical convictions opposed to immunization;

(B) has reviewed and understands evidence-based educational material provided by the department of health regarding immunizations, including information about the risks of adverse reactions to immunization;

(C) understands that failure to complete the required vaccination schedule increases risk to the person and others of contracting or carrying a vaccine-preventable infectious disease; and

(D) understands that there are persons with special health needs attending schools and child care facilities who are unable to be vaccinated or who are at heightened risk of contracting a vaccine-preventable communicable disease and for whom such a disease could be life-threatening.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

(c) A form signed pursuant to subdivision (a)(3) of this section and the fact that such a form was signed shall not be:

(1) construed to create or deny civil liability for any person; or

(2) admissible as evidence in any civil proceeding.

Sec. 3. 18 V.S.A. § 1124 is amended as follows:

§ 1124. ACCESS TO AND REPORTING OF IMMUNIZATION RECORDS

(a) In addition to any data collected in accordance with the requirements of the Centers for Disease Control and Prevention, the Vermont department of health shall annually collect from schools the immunization rates for at least those students in the first and eighth grades for each required vaccine. The data collected by the department shall include the number of medical, philosophical, and religious exemptions filed for each required vaccine and the number of students with a provisional admittance.

(b) Appropriate health personnel, including school nurses, shall have access to immunization records of anyone enrolled in Vermont schools or child care facilities, when access is required in the performance of official duties related to the immunizations required by this subchapter. Access to student immunization records shall only be provided with the prior written consent of parents and students as required by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted thereunder.

Sec. 4. 18 V.S.A. § 1130(b)(1) is amended to read:

(b)(1) The department of health shall establish an immunization pilot program with the ultimate goal of ensuring universal access to vaccines for all Vermonters at no charge to the individual and to reduce the cost at which the state may purchase vaccines. The pilot program shall be in effect from January 1, 2010, through December 31, ~~2012~~ 2014. During the term of the pilot program, the department shall purchase, provide for the distribution of, and monitor the use of vaccines as provided for in this subsection and subsection (c) of this section. The cost of the vaccines and an administrative surcharge shall be reimbursed by health insurers as provided for in subsections (e) and (f) of this section.

Sec. 5. REPORT

The Vermont department of health shall submit a report to the general assembly on or before January 15, 2014 containing data collected pursuant to 18 V.S.A. § 1124(a) for the purpose of informing future policy discussions regarding immunization exemptions.

Sec. 6. INTERIM WORKING GROUP ON PROTECTING

IMMUNOCOMPROMISED STUDENTS AND STUDENTS WITH
SPECIAL HEALTH NEEDS

(a) The departments of education and of health shall convene a working group on how to protect immunocompromised students and students with special health needs, which shall study the feasibility of allowing these students to enroll in a public school maintained by an adjoining school district, where the adjoining school district has a higher immunization rate than the school maintained by the student's school district of residence. For the purpose of protecting immunocompromised students and students with special health needs, the working group shall also assess the necessity and practicability of requiring adults employed at schools to be fully immunized. The working group shall submit a 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 1, 2013.

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

(1) the commissioner of education or designee, who shall serve as co-chair;

(2) the commissioner of health or designee, who shall serve as co-chair;

(3) one medical professional with training or experience treating immunocompromised patients, appointed by the commissioner of health;

(4) one medical professional specializing in pediatric care, appointed by the commissioner of health;

(5) the executive director of the Vermont Superintendents Association; and

(6) a member of the Vermont-National Education Association.

(c) For the purposes of its study, the working group shall have joint administrative support from the departments of education and of health.

(d) The working group on protecting immunocompromised students shall cease to exist on January 31, 2013.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

COMMITTEE ON THE PART OF
THE SENATESEN. KEVIN J. MULLIN
SEN. CLAIRE D. AYERCOMMITTEE ON THE PART OF
THE HOUSEREP. MICHAEL FISHER
REP. KRISTY K. SPENGLER
REP. GEORGE W. TILL

Pending the question, Shall the House adopt the Addendum to the Committee of Conference Report? **Rep. Sharpe of Bristol** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House adopt the Addendum to the Committee of Conference Report? was decided in the affirmative. Yeas, 133. Nays, 6.

Those who voted in the affirmative are:

Acinapura of Brandon	Devereux of Mount Holly	Kupersmith of South Burlington
Ancel of Calais	Donahue of Northfield *	Lanpher of Vergennes
Andrews of Rutland City	Donovan of Burlington	Lawrence of Lyndon
Aswad of Burlington	Eckhardt of Chittenden	Lenes of Shelburne
Atkins of Winooski	Edwards of Brattleboro	Lewis of Berlin
Bartholomew of Hartland	Emmons of Springfield	Lewis of Derby
Batchelor of Derby	Evans of Essex	Lippert of Hinesburg
Bissonnette of Winooski	Fagan of Rutland City	Lorber of Burlington
Bohi of Hartford	Fisher of Lincoln	Macaig of Williston
Botzow of Pownal	Frank of Underhill	Malcolm of Pawlet
Bouchard of Colchester	French of Shrewsbury	Manwaring of Wilmington
Branagan of Georgia	French of Randolph	Marcotte of Coventry
Burditt of West Rutland	Grad of Moretown	Marek of Newfane
Burke of Brattleboro	Greshin of Warren	Martin of Springfield
Buxton of Tunbridge	Haas of Rochester	Martin of Wolcott
Campion of Bennington	Head of South Burlington	Masland of Thetford
Canfield of Fair Haven	Heath of Westford	McAllister of Highgate
Cheney of Norwich	Hebert of Vernon	McCullough of Williston
Christie of Hartford	Helm of Fair Haven	McFaun of Barre Town
Clark of Vergennes	Higley of Lowell	Miller of Shaftsbury
Clarkson of Woodstock	Hooper of Montpelier	Mook of Bennington
Condon of Colchester	Howrigan of Fairfield	Moran of Wardsboro
Conquest of Newbury	Jerman of Essex	Morrissey of Bennington
Consejo of Sheldon	Jewett of Ripton	Mrowicki of Putney
Copeland-Hanzas of Bradford	Johnson of South Hero	Munger of South Burlington
Corcoran of Bennington	Johnson of Canaan	Myers of Essex
Courcelle of Rutland City	Keenan of St. Albans City	Nuovo of Middlebury
Crawford of Burke	Kilmartin of Newport City *	O'Brien of Richmond
Dakin of Chester	Kitzmiller of Montpelier	Olsen of Jamaica
Davis of Washington	Klein of East Montpelier	O'Sullivan of Burlington
Deen of Westminster	Koch of Barre Town	Pearce of Richford
Degree of St. Albans City	Krebs of South Hero	Pearson of Burlington
	Krowinski of Burlington	

Peaslee of Guildhall	Shand of Weathersfield	Townsend of Randolph
Peltz of Woodbury	Sharpe of Bristol	Trieber of Rockingham
Perley of Enosburgh	Shaw of Pittsford	Turner of Milton
Poirier of Barre City	Smith of New Haven	Waite-Simpson of Essex
Potter of Clarendon	South of St. Johnsbury	Webb of Shelburne
Pugh of South Burlington	Spengler of Colchester	Wilson of Manchester
Ralston of Middlebury	Stevens of Waterbury	Winters of Williamstown
Ram of Burlington	Stevens of Shoreham	Wizowaty of Burlington
Reis of St. Johnsbury	Stuart of Brattleboro	Woodward of Johnson
Russell of Rutland City *	Sweaney of Windsor	Wright of Burlington
Savage of Swanton	Till of Jericho	Yantachka of Charlotte
Scheuermann of Stowe	Toll of Danville	Zagar of Barnard

Those who voted in the negative are:

Dickinson of St. Albans Town	Hubert of Milton	Young of Glover
Howard of Cambridge	Larocque of Barnet	
	Strong of Albany *	

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

Brennan of Colchester	Gilbert of Fairfax	Smith of Morristown
Browning of Arlington	Komline of Dorset	Taylor of Barre City
Donaghy of Poultney	McNeil of Rutland Town	
Ellis of Waterbury	Partridge of Windham	

Rep. Clark of Vergennes explained his vote as follows:

“Madam Speaker:

This Legislative solution is still looking to attach itself to a problem yet unnamed.”

Rep. Clarkson of Woodstock explained her vote as follows:

“Madam Speaker:

I thank the members of the S.199 Conference Committee for getting back to the table and constructing a workable compromise.

If only our Congressional Colleagues could follow our example – work hard on a thorny problem, thrash through the policy prickles and come to a constructive compromise.”

Rep. Donahue of Northfield explained her vote as follows:

“Madam Speaker:

I remain highly distressed that we would both assert life-threatening risk to other children and yet agree to allow it to happen. I vote ‘yes’ because I

believe we need to gather the data to make a more informed decision in the future.”

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

“Madam Speaker:

I vote ‘yes’ after much soul-searching and study. This version of S.199 strikes a fair, albeit imperfect, balance between constitutionally protected individual liberty and the needs of the community, especially its youth.

1122(a) (3) demands that the complete picture be presented to the adults and the parents of children before making a decision.

I believe that our House leadership did well to obtain this ‘fair balance’ against the Senate’s version which was likely to destroy any chance for making needed progress in this area.

Thank you to the House leadership.”

Rep. Russell of Rutland City explained his vote as follows:

“Madam Speaker:

We are fortunate to live in Vermont, where we have always come together, in the end, to find resolution. Our motto serves us well “Freedom & Unity !”

Education is key and serves us all in our quest to seek the right measure of balance. In this Committee of Conference parental rights and the right of the community as a whole have been preserved, therefore I vote ‘yes!’

Rep. Shaw of Pittsford explained his vote as follows:

“Madam Speaker:

I vote ‘yes’, but am concerned with the charge to the working group to move immune-compromised students to another school district that is deemed safer.”

Rep. Strong of Albany explained her vote as follows:

“Madam Speaker:

Thank you Madam Speaker. I am thankful that the philosophical exemption is kept in this bill, but on behalf of the many parents who are concerned about the side effects of vaccines, I support the rights of parents to fully have freedom to make their decisions on behalf of the well being of their children.”

Message from the Senate No. 72

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 679. An act relating to creating a uniform generation tax for renewable energy plants.

And has passed the same in concurrence.

The Senate has considered House proposals of amendment to Senate bills of the following titles:

S. 89. An act relating to organ and tissue donation and Medicaid for Working Persons with Disabilities.

S. 136. An act relating to vocational rehabilitation.

S. 183. An act relating to the testing of potable water supplies.

And has concurred therein.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 214. An act relating to customer rights regarding smart meters.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon Senate bill of the following title:

S. 244. An act relating to referral to court diversion for driving with a suspended license.

And has accepted and adopted the same on its part.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 771. An act relating to making technical corrections and other miscellaneous changes to education law.

And has accepted and adopted the same on its part.

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

H. 730. An act relating to miscellaneous consumer protection laws.

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Illuzzi
Senator Ashe
Senator Campbell

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill entitled:

H. 778. An act relating to structured settlements.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Nitka
Senator Snelling
Senator White.

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

H. 535

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

An act relating to racial disparities in the Vermont criminal justice system

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

Sec. 1. DATA COLLECTION AND ANALYSIS; APPROPRIATION

(a) Research regarding sentencing practices routinely concludes that two variables drive sentencing decisions—the seriousness of the offense and the defendant’s risk to reoffend. The Vermont Center for Justice Research (“the center”) shall examine the effect of these and other variables, including the race of the defendant, on sentencing decisions in Vermont, for a five-year period. The center shall use data from the Federal Bureau of Investigation Interstate Identification Index, the department of motor vehicles, the Vermont criminal information center, the department of corrections, and the Vermont

courts to explain if the disparities are based on legal or nonlegal factors. The center's research shall focus on the following:

(1) How do the sentences of people of particular census categories, in the aggregate and by national incident-based reporting system race data fields (NIBRS), which currently include white, black, Asian, Native American or Alaskan Native, and Hispanic, compare to the sentences of white defendants with respect to sentence type, length of sentence, and level of restriction?

(2) How does the actual time spent by people of particular census categories, in the aggregate and by NIBRS race data fields, under department of corrections' supervision (and the degree of restriction) compare to the time spent by (and the degree of restriction of) white defendants?

(3) If disparate sentencing patterns or disparate service patterns exist for people of particular census categories, in the aggregate and by NIBRS race data fields, what variables included in the study design explain the disparity?

(b) On or before December 15, 2012, results of the study shall be reported to the house and senate committees on judiciary, to the court administrator, and to each organization or entity represented on the governor's criminal justice cabinet.

(c) The human rights commission is authorized to transfer \$20,000.00 from its existing budget to the Vermont Center for Justice Research to finance this data collection analysis and report and is authorized to apply for and receive grants for the same purpose.

Sec. 2. 20 V.S.A. § 2366 is added to read:

§ 2366. LAW ENFORCEMENT AGENCIES; BIAS-FREE POLICING POLICY; RACE DATA COLLECTION

(a) No later than January 1, 2013, every state, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall adopt a bias-free policing policy. The policy shall contain the essential elements of such a policy as determined by the Law Enforcement Advisory Board after its review of the current Vermont State Police Policy and the most current model policy issued by the office of the attorney general.

(b) The policy shall encourage ongoing bias-free law enforcement training for state, local, county, and municipal law enforcement agencies.

(c) State, local, county, and municipal law enforcement agencies that employ one or more certified law enforcement officers are encouraged to work with the Vermont association of chiefs of police to extend the collection of

roadside-stop race data uniformly throughout state law enforcement agencies, with the goal of obtaining uniform roadside-stop race data for analysis.

Sec. 3. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS

* * *

(e) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont criminal justice training council.

Sec. 4. 24 V.S.A. § 1939 is amended as follows:

§ 1939. LAW ENFORCEMENT ADVISORY BOARD

* * *

(e) The board shall examine how individuals make complaints to law enforcement and suggest, on or before December 15, 2012, to the senate and house committees on judiciary what procedures should exist to file a complaint.

Sec. 5. CRIMINAL JUSTICE AGENCIES; BIAS-FREE CRIMINAL JUSTICE POLICY

The general assembly encourages all criminal justice entities through their professional rules of conduct to ensure that all actions taken are done in a manner that is free of bias.

Thereupon, **Rep. Lippert of Hinesburg** moved to concur in the Senate proposal of amendment with a further amendment thereto, as follows:

In Sec. 1, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) The general assembly appropriates \$20,000.00 to the Vermont Center for Justice Research to support this data collection, analysis, and report.

Which was agreed to.

Recess

At one o'clock and forty-five minutes in the afternoon, the Speaker declared a recess until five o'clock in the afternoon.

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

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

H. 747

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

An act relating to cigarette manufacturers

In Sec. 1, 7 V.S.A. § 1003, by striking subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read:

(g) As used in this section, “little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco which is a cigarette within the meaning of 32 V.S.A. § 7202(1) and as to which 1,000 units weigh not more than three pounds.

Second: By striking out Sec. 5 and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. 33 V.S.A. § 1920 is amended to read:

§ 1920. AGENT FOR SERVICE OF PROCESS

(a) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or other business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this subchapter or subchapter 1A of this chapter, or both, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number, and satisfactory proof of the appointment and availability of such agent to the attorney general. The secretary of state shall be designated as agent for service of process for importers of nonparticipating manufacturers located outside the United States. Service shall be made upon the secretary of state in accordance with the provisions of 12 V.S.A. §§ 851 and 852.

* * *

Third: By adding Secs. 9 and 10 to read:

Sec. 9. 6 V.S.A. § 561 is amended to read:

§ 561. INTENT

The intent of this act is to establish policy and procedures for growing industrial hemp in Vermont so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity ~~when federal regulations permit.~~

Sec. 10. REPEAL

Sec. 3 of No. 212 of the Acts of the 2007 Adj. Sess. (2008) (delayed effective date of industrial hemp cultivation program) is repealed.

and that after passage the title of the bill be amended to read: "An act relating to cigarette manufacturers, commercial cigarette rolling machines, and industrial hemp"

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Krowinski of Burlington** moved to concur in the Senate proposal of amendment with a further amendment thereto, as follows:

By striking Secs. 9 and 10 in their entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. ~~Sec. 3 of No. 212 of the Acts of the 2007 Adj. Sess. (2008) is~~ amended to read:

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage, except ~~6 V.S.A. § 566, which shall take effect at such time as~~ that the secretary shall not issue a license to grow industrial hemp pursuant to Chapter 34 of Title 6 until the United States Congress amends the definition of "marihuana" for the purposes of the Controlled Substances Act (21 U.S.C. 802(16)) or the United States drug enforcement agency amends its interpretation of the existing definition in a manner affording an applicant a reasonable expectation that a permit to grow industrial hemp may be issued in accordance with part C of chapter 13 of Title 21 of the United States Code Annotated, or the drug enforcement agency takes affirmative steps to approve or deny a permit sought by the holder of a license to grow industrial hemp in another state.

* * *

Which was agreed to.

House Resolution Referred to Committee

H.R. 22

House resolution, entitled

House resolution urging the Vermont public service board to ensure that rates charged by a regulated utility shall not include the return to shareholders of or a return to shareholders on any costs incurred in satisfying a financial obligation to ratepayers arising from any imprudent management decisions of the utility which resulted in the imposition by the public service board of a mechanism to protect against the unjust enrichment of shareholders at the expense of ratepayers

Offered by: Representatives Ralston of Middlebury, Poirier of Barre City, Komline of Dorset, Pearson of Burlington and Browning of Arlington

Whereas, in 2001, over concern about Central Vermont Public Service Corporation's (CVPS's) financial situation, the public service board approved a rate increase which allowed CVPS to recover the costs of its imprudent management decisions, and

Whereas, to address the possibility of unjust enrichment, the approved rate increase was accompanied by a windfall-sharing mechanism designed to prevent a financial windfall to shareholders as the result of a future acquisition, sale of assets, or merger at a price in excess of book value, and

Whereas, under the windfall-sharing mechanism, CVPS ratepayers are entitled to receive 50 percent of the proceeds above book value at the time of such contemplated acquisition, sale, or merger up to \$16 million (\$21 million when adjusted for inflation), and

Whereas, the public service board specified that the funds should be returned to ratepayers and stated that the repayment could be made immediately after a triggering occurrence or over time so as not to create an undue financial strain on the company, and

Whereas, the public service board provided that, at the time of a triggering event, a specific procedure would be designed by which the windfall profit would be shared with ratepayers, and

Whereas, public service board Docket No. 7770, relating to the acquisition of CVPS by Gaz Métro and the merger of CVPS and Green Mountain Power (GMP), constitutes a triggering event for the implementation of the windfall-sharing mechanism, and

Whereas, on March 26, 2012, the department of public service and the petitioners in Docket No. 7770 entered into a memorandum of understanding (MOU), and

Whereas, with respect to the windfall-sharing mechanism, the MOU proposes a \$21 million investment by GMP in a company-administered Clean Energy and Efficiency Development Fund, and

Whereas, the MOU further specifies that the \$21 million investment will be included in GMP's rate base, and therefore the company's shareholders will receive a return of and a return on that investment, and

Whereas, GMP's current rate of return on investments is approximately seven percent, and

Whereas, through investments in the fund, GMP has committed to the customers of CVPS net benefits in an amount at least equal to 1.2 times the required investment (i.e., approximately \$25 million); nonetheless, GMP should not be permitted to recover in its future rates the costs of repaying the excess rates previously charged to customers, now therefore be it

Resolved by the House of Representatives:

That this legislative body urges the Vermont public service board to ensure that rates charged by a regulated utility shall not include the return to shareholders of or a return to shareholders on any costs incurred in satisfying a financial obligation to ratepayers arising from any imprudent management decisions of the utility which resulted in the imposition by the public service board of a mechanism to protect against the unjust enrichment of shareholders at the expense of ratepayers, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Vermont public service board.

Which was read and referred to the committee on Commerce and Economic Development.

Recess

At five o'clock and thirty minutes in the afternoon, the Speaker declared a recess until seven o'clock in the evening.

At eight o'clock and ten minutes in the evening, the Speaker called the House to order.

Message from the Senate No. 73

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 774. An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths.

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

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon Senate bill of the following title:

S. 189. An act relating to expanding confidentiality of cases accepted by the court diversion project.

And has accepted and adopted the same on its part.

The Senate has considered the reports of the Committees of Conference upon the disagreeing votes of the two Houses upon House bills of the following titles:

H. 496. An act relating to preserving Vermont's working landscape.

H. 769. An act relating to department of environmental conservation fees.

H. 780. An act relating to compensation for certain state employees.

And has accepted and adopted the same on its part.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill of the following title:

H. 524. An act relating to the regulation of professions and occupations.

And has concurred therein.

The Senate has considered House proposal of amendment to Senate bill entitled:

H. 600. An act relating to mandatory mediation in foreclosure proceedings.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Campbell

Senator Sears

Senator White

The Governor has informed the Senate that on the third day of May, 2012, he approved and signed a bill originating in the Senate of the following title:

S. 115. An act relating to ineffective assistance claims against assigned counsel.

Committee of Conference Appointed; Rules Suspended

H. 600

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on House bill, entitled

An act relating to mandatory mediation in foreclosure proceedings

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Grad of Moretown
Rep. Koch of Barre Town
Rep. Marek of Newfane

Rules Suspended; Bill Messaged to Senate Forthwith

H. 747

House bill, entitled

An act relating to cigarette manufacturers

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

Recess

At eight o'clock and fifteen minutes in the evening, the Speaker declared a recess until eight thirty in the evening.

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

Adjournment

At eight o'clock and forty-five minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.