

Journal of the Senate

FRIDAY, MARCH 23, 2012

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 38

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

- H. 78.** An act relating to wages for laid-off employees.
- H. 157.** An act relating to restrictions on tanning beds.
- H. 412.** An act relating to harassment and bullying in educational settings.
- H. 459.** An act relating to approval of amendments to the charter of the town of Brattleboro.
- H. 468.** An act relating to the Vermont Energy Act of 2012.
- H. 484.** An act relating to amendment to the Windham solid waste district charter.
- H. 498.** An act relating to parity for primary mental health care services.
- H. 550.** An act relating to the Vermont administrative procedure act.
- H. 627.** An act relating to an opiate addiction treatment system.
- H. 640.** An act relating to promoting tourism and marketing.
- H. 691.** An act relating to prohibiting collusion as an antitrust violation.
- H. 699.** An act relating to scrap metal processors.
- H. 730.** An act relating to miscellaneous consumer protection laws.
- H. 745.** An act relating to the Vermont prescription monitoring system.
- H. 747.** An act relating to cigarette manufacturers.

H. 751. An act relating to jurisdiction of delinquency proceedings.

H. 759. An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment.

H. 768. An act relating to ignition interlock restricted driver's licenses and civil suspensions.

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

H. 770. An act relating to the state's transportation program.

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

H. 772. An act relating to allocation of federal rental subsidies.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 51. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

H. 512. An act relating to banking, insurance, securities, and health care administration.

And has severally concurred therein.

Bill Referred to Committee on Appropriations

S. 99.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to agricultural economic development.

Bill Referred to Committee on Rules

S. 142.

Senate bill of the following title, appearing on the Calendar for notice, and not having met the crossover deadline was referred to the Committee on Rules:

An act relating to pet merchants.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 78.

An act relating to wages for laid-off employees.

To the Committee on Economic Development, Housing and General Affairs.

H. 157.

An act relating to restrictions on tanning beds.

To the Committee on Health and Welfare.

H. 412.

An act relating to harassment and bullying in educational settings.

To the Committee on Education.

H. 459.

An act relating to approval of amendments to the charter of the town of Brattleboro.

To the Committee on Government Operations.

H. 468.

An act relating to the Vermont Energy Act of 2012.

To the Committee on Natural Resources and Energy.

H. 484.

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

To the Committee on Government Operations.

H. 498.

An act relating to parity for primary mental health care services.

To the Committee on Health and Welfare.

H. 550.

An act relating to the Vermont administrative procedure act.

To the Committee on Government Operations.

H. 627.

An act relating to an opiate addiction treatment system.

To the Committee on Health and Welfare.

H. 640.

An act relating to promoting tourism and marketing.

To the Committee on Economic Development, Housing and General Affairs.

H. 691.

An act relating to prohibiting collusion as an antitrust violation.

To the Committee on Judiciary.

H. 699.

An act relating to scrap metal processors.

To the Committee on Economic Development, Housing and General Affairs.

H. 730.

An act relating to miscellaneous consumer protection laws.

To the Committee on Economic Development, Housing and General Affairs.

H. 745.

An act relating to the Vermont prescription monitoring system.

To the Committee on Health and Welfare.

H. 747.

An act relating to cigarette manufacturers.

To the Committee on Economic Development, Housing and General Affairs.

H. 751.

An act relating to jurisdiction of delinquency proceedings.

To the Committee on Judiciary.

H. 759.

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

To the Committee on Health and Welfare.

H. 768.

An act relating to ignition interlock restricted driver's licenses and civil suspensions.

To the Committee on Judiciary.

H. 769.

An act relating to department of environmental conservation fees.

To the Committee on Finance.

H. 770.

An act relating to the state's transportation program.

To the Committee on Transportation.

H. 771.

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

To the Committee on Education.

H. 772.

An act relating to allocation of federal rental subsidies.

To the Committee on Economic Development, Housing and General Affairs.

**Message from the Governor
Appointments Referred**

A message was received from the Governor, by Alexandra MacLean, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Barry, Virginia of Barre - Member of the State Lottery Commission, - from March 14, 2012, to February 28, 2015.

To the Committee on Economic Development, Housing and General Affairs.

Scala, Thomas of Brattleboro - Member of the State Lottery Commission, - from March 14, 2012, to February 28, 2015.

To the Committee on Economic Development, Housing and General Affairs.

Neubauer, Kate of Burlington - Member of the VT Citizens' Advisory Council on Lake Champlain's Future, - from March 13, 2012, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Hoerr, Roland of Colchester - Member of the VT Citizens' Advisory Council on Lake Champlain's Future, - from March 13, 2012, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Ehlers, James of Colchester - Member of the VT Citizens' Advisory Council on Lake Champlain's Future, - from March 13, 2012, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Marsh, Donald of Montpelier - Member of the Natural Gas and Oil Conservation Board, - from March 13, 2012, to February 28, 2014.

To the Committee on Natural Resources and Energy.

Skinner, Mary Just of Middlesex - Member of the Natural Gas and Oil Conservation Board, - from March 13, 2012, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Evslin, Mary of Stowe - Member of the Capitol Complex Commission, - from March 13, 2012, to February 28, 2015.

To the Committee on Institutions.

Johnson-Aten, Bonnie of Montpelier - Member of the State Board of Education, - from March 15, 2012, to February 28, 2018.

To the Committee on Education.

Rules Suspended; Committee Relieved of Further Consideration; Bill Committed

S. 142.

On motion of Senator White, the rules were suspended, and S. 142 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, pending entry on the Calendar for notice tomorrow, the Senate bill entitled:

An act relating to pet merchants,

on motion of Senator White, was committed to the Committee on Finance with the report of the Committee on Government Operations, *intact*.

Committee Relieved of Further Consideration; Bill Committed

H. 765.

On motion of Senator Hartwell, the Committee on Institutions was relieved of further consideration of House bill entitled:

An act relating to the mental health needs of the corrections population, and the bill was committed to the Committee on Judiciary.

Bills Amended; Bills Passed

S. 202.

Senate bill entitled:

An act relating to regulation of flood hazard areas.

Was taken up.

Thereupon, pending third reading of the bill, Senator Lyons moved to amend the bill in Sec. 1, 10 V.S.A. § 754, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Rulemaking authority.

(1) On or before July 1, 2013, the secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for the issuance and enforcement of permits applicable to development that is:

(A) exempt from municipal land use regulation under 24 V.S.A. chapter 117; and

(B) located within a flood hazard area of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. chapter 117.

(2) The secretary shall not adopt rules under this subsection that regulate agricultural activities without the consent of the secretary of agriculture, food and markets, provided that the secretary of agriculture, food and markets shall not withhold consent under this subdivision when lack of such consent would result in the state's noncompliance with the National Flood Insurance Program.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

S. 214.

Senate bill entitled:

An act relating to customer rights regarding smart meters.

Was taken up.

Thereupon, pending third reading of the bill, Senator MacDonald on behalf of the Committee on Finance moved to amend the bill as follows:

First: In Sec. 1, 30 V.S.A. § 2811, in subsection (c), by striking out the word “Upon” and inserting in lieu thereof Beginning April 15, 2013, upon

Second: In Sec. 1, 30 V.S.A. § 2811, in subsection (d), after the word “Reports.” by adding a new first sentence to read as follows: On or before March 1, 2013, the commissioner of public service shall publish a report itemizing the opt-out wireless smart meter removal fees and the opt-out wireless smart meter reading fees authorized for each electric company under subsection (c) of this section.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Amended; Third Reading Ordered**S. 179.**

Senator Benning, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to amending perpetual conservation easements.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 302 is amended to read:

§ 302. POLICY, FINDINGS, AND PURPOSE

(a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont’s agricultural land, forestland, historic properties, important natural areas, and recreational lands are of primary importance to the economic vitality and quality of life of the state.

(b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, and to support farm, forest, and related enterprises, Vermont should encourage and assist in creating affordable housing and in preserving the state’s agricultural land, forestland, historic properties, important natural areas and recreational

lands, and in keeping conserved agricultural land in production and affordable for future generations of farmers.

(c) It is the purpose of this chapter to create the Vermont housing and conservation trust fund to be administered by the Vermont housing and conservation board to further the policies established by subsections (a) and (b) of this section.

Sec. 2. 10 V.S.A. § 6301 is amended to read:

§ 6301. PURPOSE

It is the purpose of this chapter to encourage and assist the maintenance of the present uses of Vermont's agricultural, forest, and other undeveloped land and to prevent the accelerated residential and commercial development thereof; to preserve and to enhance Vermont's scenic natural resources; to strengthen the base of the recreation industry and to increase employment, income, business, and investment; ~~and~~ to enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety, and welfare; and to encourage the use of conservation and preservation tools to support farm, forest, and related enterprises, thereby strengthening Vermont's economy to improve the quality of life for Vermonters, and to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

Sec. 3. 10 V.S.A. § 6307 is amended to read:

§ 6307. ENFORCEMENT

(a) Injunction. In any case where rights and interests in real property are held by a municipality, state agency, or qualified organization under the authority of this chapter, the legislative body of the municipality, the state agency, or the qualified organization may institute injunction proceedings to enforce the rights of the municipality, state agency, or qualified organization, in accordance with the provisions of this chapter, and may take all other proceedings as are available to an owner of real property under the laws of this state to protect and conserve its right or interest.

(b) Liquidated damages. Any contract or deed establishing or relating to the sale or transfer of rights or interests in real property under the authority of this chapter may provide for specified liquidated damages, actual damages, costs, and reasonable attorney fees in the event of a violation of the rights of the municipality, state agency, or qualified organization thereunder.

(c) Conservation rights. The holder of conservation rights and interests may seek injunctive relief and damages against any person who damages the

holder's rights and interests, irrespective of whether the owner of the land is a party to the proceeding.

Sec. 4. 10 V.S.A. § 6308 is amended to read:

§ 6308. ~~TERMINATION OF RIGHTS~~ RIGHTS IN PERPETUITY UNLESS LIMITED

(a) If the legislative body of a municipality in the case of municipal rights or interests, or a state agency, in the case of state-owned rights or interests, finds that the retention of the rights or interests is no longer needed to carry out the purposes of this chapter, the rights or interests may be released and conveyed to the co-owner, to another public agency, to another party holding other rights or interests in the land, or to a third party. Where the conveyance is to a party other than another public agency or qualified organization, the municipality or state agency shall receive adequate compensation from that party for the conveyance of the rights or interests.

~~(b) Wherever possible, in order to promote the interests of the state, municipalities, qualified organizations, or private landowners involved, agreements for the conveyance of rights or interests in real property less than fee simple, entered into under the authority of this chapter, shall contain a provision limiting the agreement to a specified number of years except where both parties agree, such agreements may provide for the conveyance of rights and interests in perpetuity.~~

The conveyance of rights or interests in real property less than fee simple made under the authority of this chapter shall be perpetual, except if the conveyance is limited by its terms to a specific period.

Sec. 5. 10 V.S.A. § 823 is amended to read:

§ 823. INTERESTS IN REAL PROPERTY

Conservation and preservation rights and interests shall be deemed to be interests in real property and shall run with the land. A document creating such a right or interest shall be deemed to be a conveyance of real property and shall be recorded under 27 V.S.A. chapter 5 of Title 27. Such a right or interest shall be subject to the requirement of filing a notice of claim within the 40- year period as provided in 27 V.S.A. § 603. Such a right or interest shall be enforceable in law or in equity. Any subsequent transfer, mortgage, lease, or other conveyance of the real property or an interest in the real property shall reference the grant of conservation rights and interests in the real property, provided, however, that the failure to include a reference to the grant shall not affect the validity or enforceability of the conservation rights and interests.

Sec. 6. 27 V.S.A. § 604(a) is amended to read:

(a) This subchapter shall not bar or extinguish any of the following interests, by reason of failure to file the notice provided for in section 605 of this title:

* * *

(7) Any easement or interest in the nature of an easement, or any rights appurtenant thereto granted, excepted or reserved by a recorded instrument creating such easement or interest, ~~including any rights for future use, except rights and interests created pursuant to chapter 34 of Title 10.~~

(8) Any conservation rights or interests created pursuant to 10 V.S.A. chapter 155.

Sec. 7. 10 V.S.A. § 6303(a) is amended to read:

(a) The rights and interests in real property which may be acquired, used, encumbered, and conveyed by a municipality, state agency, or qualified organization shall include, but not be limited to, the following:

* * *

(7) ~~Option~~ Preemptive rights and options to purchase. The acquisition of preemptive rights such as a right of first refusal or an option to purchase land or rights and interests therein.

Sec. 8. 32 V.S.A. § 9606 is amended to read:

§ 9606. PROPERTY TRANSFER RETURN

* * *

(e) The property transfer return required under this section shall also contain a certificate in such form as the secretary of the agency of natural resources shall prescribe and shall be signed under oath on affirmation by each of the parties or their legal representatives. The certificate shall indicate that each party has investigated and disclosed all of his or her knowledge relating to the flood regulations, if any, affecting the property.

(f) The property transfer return required under this section shall also contain a certificate in such form as the commissioner of taxes shall prescribe and shall be signed under oath on affirmation by each of the parties or their legal representatives. The certificate shall indicate that the transfer, mortgage, deed, lease, or other conveyance references all grants of conservation rights or interests in the real property, as required by 10 V.S.A. § 823.

(g) The property transfer tax return shall not be required of properties qualified for the exemption stated in subdivision 9603(17) of this title. A

public utility shall notify the listers of a municipality of the grantors, grantees, consideration, date of execution, and location of the easement when it files for recording a deed transferring a utility line easement that does not require a transfer tax return.

~~(g)~~(h) The commissioner of taxes is authorized to disclose to any person any information appearing on a property transfer tax return, including statistical information derived therefrom, and such information derived from research into information appearing on property transfer tax returns as is necessary to determine if the property being transferred is subject to 10 V.S.A. chapter 151.

Sec. 9. WORKING GROUP ON CONSERVATION EASEMENTS

(a) Creation of working group. There is created a working group on perpetual conservation easements to study the issues relating to the creation of a formal and transparent public process for the amendment of perpetual conservation easements, the criteria for approving such amendments, and the entity most appropriate to review and approve such amendments.

(b) Membership. The conservation easements working group (the working group) shall be composed of the following members:

(1) The secretary of agriculture, food and markets or designee.

(2) A representative of the Vermont housing and conservation board, designated by the board.

(3) The commissioner of forests, parks and recreation or designee.

(4) One member of the legal staff in the Vermont office of the attorney general, designated by the attorney general.

(5) A representative of Vermont Land Trust, designated by its board.

(6) A representative of Upper Valley Land Trust, designated by its board.

(7) A representative of the Vermont Federation of Sportsmen's Clubs, designated by its board.

(8) A representative of the Vermont Green Mountain Club, designated by its board.

(9) A representative of the Vermont chapter of The Nature Conservancy, designated by its director.

(10) A representative of a regional land trust in Vermont, appointed by the governor.

(11) An attorney licensed in Vermont and practicing in or knowledgeable about both federal tax law and real estate law, including land conservation, appointed by the Vermont Bar Association.

(12) A representative from a farming organization who is knowledgeable about agricultural conservation, appointed by the governor.

(13) A representative of the Vermont Association of Snow Travelers, designated by its board.

(c) Structure; decision-making. The working group shall elect a chair from its membership. The provisions of 1 V.S.A. § 172 (joint authority to three or more) shall apply to the meetings and decision-making of the working group.

(d) Issues. The working group shall:

(1) Investigate the options for conservation easement amendment approval laid out in S.179 and H.553 of 2012 and during the course of consideration of those bills in the relevant standing committees of the general assembly, including the following options:

(A) creating an easement amendment panel within the natural resources board to provide administrative oversight and approval for the amendment of conservation easements;

(B) requiring the housing and conservation board, in conjunction with the agency of agriculture, food and markets, to provide administrative oversight and approval for the amendment of conservation easement amendments;

(C) requiring all qualified holders to individually run a transparent public process for the approval of conservation easement amendments and to issue a written decision. Under this option, the working group should consider whether the decision should be revocable or appealable, and if so, by whom;

(D) requiring all qualified holders to get court approval for amendments that may have a significant effect on the conservation values protected by the easement.

(2) Investigate any other options for conservation easement amendment approval that the working group believes are relevant.

(3) Consider any other issues it identifies as relevant to the amendment of perpetual conservation easements.

(4) develop a proposal setting out a transparent process or processes for the amendment of perpetual conservation easements held by land trusts, state agencies, and other entities qualified to hold perpetual conservation easements in Vermont.

(5) Develop proposed statutory provisions setting out criteria to be used by an administrative body, a court, or an easement holder in approving proposed amendments to perpetual conservation easements, which will ensure that conservation values protected by easement are protected in perpetuity, and that conservation easement holders in Vermont are in compliance with federal law.

(e) Report. On or before January 15, 2013, the working group shall submit to the general assembly its findings, recommendations, and proposed statutory revisions regarding the issues identified in subsection (d) of this section.

(f) Assistance. For the purpose of its study of the issues identified in subsection (d) of this section and the preparation of its recommendations pursuant to subsection (e) of this section, the working group shall have the administrative and technical assistance of the housing and conservation board.

(g) Meetings. The member from the housing and conservation board shall convene the first meeting of the working group no later than July 15, 2012.

(h) Appointments. Within 30 days of the effective date of this section, each entity required to submit a list of names to the governor pursuant to subsection (b) of this section shall make such submission. Within 60 days of this section's effective date, the appointing or designating authority shall appoint or designate each member of the working group under subsection (b) of this section and shall report the member so appointed or designated to the housing and conservation board.

Sec. 10. EFFECTIVE DATES

(a) Sec. 9 of this act and this section shall take effect on passage.

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

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Benning on behalf of the Committee on Natural Resources and Energy moved to amend the recommendation of the Committee on Natural Resources and Energy as follows:

First: In Sec. 9, subsection (b), by inserting a new subdivision (14) to read:

(14) A Vermont landowner owning land subject to a conservation easement, appointed by the governor.

Second: In Sec. 9, subsection (d), by inserting new subdivisions (6) and (7) to read:

(6) Study the issue and make recommendations as to whether conservation rights and interests should be excluded from the requirements of 27 V.S.A. § 603 concerning the re-recording of interests in land within a 40-year period.

(7) Investigate whether there is an existing online or other database appropriate for the storage of information about conservation easements alongside other information relevant to a specific property or parcel of land. This database should be available to an individual completing a title search.

Which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 222.

Senator Fox, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to cost-sharing for employer-sponsored insurance assistance plans.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1974(c)(3) is amended to read:

(3) The premium assistance program under this subsection shall provide a subsidy of premiums or cost-sharing amounts based on the household income of the eligible individual, with greater amounts of financial assistance provided to eligible individuals with lower household income and lesser amounts of assistance provided to eligible individuals with higher household income. Until an approved employer-sponsored plan is required to meet the standard in subdivision (4)(B)(ii) of this subsection, the subsidy shall include premium assistance and assistance to cover cost-sharing amounts for chronic care health services covered by the Vermont health access plan that are related to evidence-based guidelines for ongoing prevention and clinical management of the chronic condition specified in the ~~blueprint~~ Blueprint for health ~~Health~~ in 18 V.S.A. § 702, and until an employer-sponsored plan meets the standard in subdivision (4)(A) of this subsection, the subsidy shall include supplemental prescription drug coverage equivalent to the benefits offered by the Vermont health access plan. Notwithstanding any other provision of law, when an

individual is enrolled in Catamount Health solely under the high deductible standard outlined in 8 V.S.A. § 4080f(a)(9), the individual shall not be eligible for premium assistance for the 12-month period following the date of enrollment in Catamount Health.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

And that when so amended the bill ought to pass.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 238.

Senator Baruth, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to establishing the Vermont farm guest worker program.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 603 is amended to read:

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

* * *

(d) In addition to any other requirement of law or rule, a citizen of a foreign country shall produce his or her passport and visa, alien registration receipt card (green card), or other proof of legal presence for inspection and copying as a part of the application process for an operator license, junior operator license, or learner permit. Notwithstanding any other law or rule to the contrary, an operator license, junior operator license, or learner permit issued to a citizen of a foreign country shall expire coincidentally with his or her authorized duration of stay.

(e) Notwithstanding subsection (d) of this section:

(1) a citizen of Mexico, Guatemala, or such other country as the secretary determines meets or exceeds the security standards and protocols adopted by Mexico and Guatemala for issuing identification documents, may

submit as a part of the application process for an operator license, junior operator license, or learner permit:

(A) a valid passport and consular identification card issued by the government of the country of which the applicant is a citizen; and

(B) proof of continuous residence in Vermont for the six month period immediately preceding the date of application, which shall include:

(i) two pieces of mail with the applicant's current name and address;

(ii) two of the following that show the applicant's current name and address:

(I) utility bill;

(II) property tax bill with physical location;

(III) lease;

(IV) Vermont EBT card or AIM identification card;

(V) a homeowners or renters insurance policy or proof of claim;

(VI) if the applicant resides with another Vermont resident and gets no mail at his or her street address, a signed statement from the Vermont resident with whom he or she resides and two residency documents permitted by this subdivision demonstrating the legal residence of the Vermont resident; or

(iii) such other documentation as the secretary shall allow by rule;

(2) an applicant who submits documentation that meets the requirements of this subsection shall not be required to produce his or her passport and visa, alien registration receipt card (green card), or other proof of legal presence pursuant to subsection (d) of this section; and

(3) an operator license, junior operator license, or learner permit issued pursuant to this subsection shall be subject to the standards for the expiration and renewal of licenses in section 601 of this title.

Sec. 2. REPEAL; EFFECT OF REPEAL

(a) 23 V.S.A. § 603(e) shall be repealed on the date on which the Secretary of the U.S. Department of Homeland Security requires the State of Vermont to be in full compliance with the provisions of the Real ID Act of 2005.

(b) Notwithstanding any provision of law to the contrary, a driver's license issued pursuant to 23 V.S.A. § 603(e) shall become invalid upon repeal of this Sec. 2.

Sec. 3. EFFECTIVE DATE

This act shall take effect January 15, 2013.

The Committee further recommends that after passage of the bill the title be amended to read as follows:

An act relating to expanding access to driving privileges in Vermont.

And that when so amended the bill ought to pass.

Senator Mazza, for the Committee on Transportation, to which the bill was referred, reported that the recommendation of amendment of the Committee on Agriculture be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STUDY COMMITTEE ON MIGRANT WORKER ACCESS TO DRIVER'S LICENSES AND NON-DRIVER IDENTIFICATION CARDS

(a) Findings. The general assembly finds that migrant workers in Vermont face significant challenges based on their current inability to apply for Vermont driver's licenses and non-driver identification cards, including the inabilities to travel and access services, medical care, and purchase basic necessities, to officially identify themselves or be identified, and to fulfill typical responsibilities of their employment that require them to legally drive.

(b) Creation of committee; composition. There is created a study committee on migrant worker access to driver's licenses and non-driver identification cards, composed of the following seven members:

(1) One member of the senate, who shall serve as chair, appointed by the senate committee on committees.

(2) One member of the house of representatives appointed by the speaker.

(3) The commissioner of motor vehicles or designee.

(4) The secretary of agriculture, food and markets or designee.

(5) The commissioner of public safety or designee.

(6) One member appointed by Migrant Justice.

(7) One member appointed by the Vermont human rights commission.

(c) Powers and duties.

(1) The committee shall review current procedures of the department of motor vehicles to recommend legislation that will enable access to Vermont driver's licenses and non-driver identification cards for Vermont residents without Social Security numbers. The committee shall specifically consider the following:

(A) The statutory language proposed by the senate committee on agriculture amending 23 V.S.A. § 603 and creating a contingent repeal based on the implementation of the federal REAL ID Act.

(B) The current licensing and identification framework and procedures utilized in other states.

(C) The comparative costs and benefits, including potential conflicts with federal law, of adopting one or more licensing and identification frameworks in Vermont.

(2) On or before January 15, 2013, the committee shall submit a report of its findings and recommendations to the house and senate committees on transportation and on agriculture.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage, and shall be repealed on January 15, 2013.

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

An act relating to expanding access to driving privileges in Vermont.

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, recommended that the bill be amended as recommended by the Committee on Transportation with further recommendation of amendment as follows:

First: In Sec. 1, by adding a new subsection (d) to read as follows:

(d) Number of meetings; term of committee; reimbursement. The committee may meet no more than four times, and shall cease to exist on January 15, 2013.

Second: In Sec. 2, by striking out the following: “, and shall be repealed on January 15, 2013”

And that when so amended the bill ought to pass

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on

Agriculture was amended as recommended by the Committee on Transportation.

Thereupon, the recommendation of amendment of the Committee on Agriculture, as amended was amended as recommended by the Committee on Appropriations.

Thereupon, the question, Shall the recommendation of the Committee on Agriculture, as amended was decided in the affirmative

Thereupon, third reading of the bill was ordered on a roll call, Yeas 26, Nays 0.

Senator Starr having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Brock, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Mullin, Pollina, Sears, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Campbell (presiding), Illuzzi, Miller, Nitka.

Bill Amended; Bill Order to Lie

S. 138.

Senate bill entitled:

An act relating to the record keeping of search warrants.

Was taken up.

Thereupon, pending third reading of the bill, Senators Lyons, Benning and McCormack moved to amend the bill by striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 18 V.S.A. § 4216 is amended to read:

§ 4216. AUTHORIZED POSSESSION BY INDIVIDUALS

(a) A person to whom or for whose use any regulated drug has been prescribed, sold or dispensed, and the owner of any animal for which any such drug has been prescribed, sold or dispensed, may lawfully possess the same on the condition that such drug was prescribed, sold or dispensed by a physician, dentist, pharmacist, or veterinarian licensed under this chapter or under the laws of another state or country wherein such person has his or her practice;

~~and further that all amounts of. Except as otherwise provided in subsection (b) of this subsection, the drug are may be retained for personal use in the lawful any container in which it was delivered to him by the person selling or dispensing the same, provided however, that for the purposes of this section an amount of regulated drugs of not more than two days' individual prescribed dosage may be possessed by a patient for his personal use.~~

(b) A person to whom or for whose use a schedule IV drug has been prescribed, sold, or dispensed may retain for personal use in any container an amount of the drug of not more than seven days' individual prescribed dosage.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Benning and Baruth moved to amend the bill by adding two new sections to be numbered Secs. 6a and 6b to read as follows:

Sec. 6a. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or less shall be imprisoned not more than six months or fined not more than \$500.00, or both assessed a civil penalty of not more than \$100.00. If a person suspected of violating this subdivision (a)(1)(A) challenges the presence of cannabinoids, the person may request that the state crime laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the state shall reimburse the person at state expense.

(B) A person convicted of a second or subsequent offense under this subdivision knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of more than one ounce shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. Upon an adjudication of guilt for a first offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041, except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances, of an aggregate weight of ~~two~~ four ounces or more containing any marijuana or knowingly and unlawfully cultivating more than ~~three~~ six plants of marijuana shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one pound or more containing any marijuana or knowingly and unlawfully cultivating more than ten plants of marijuana shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances, of an aggregate weight of ten pounds or more or knowingly and unlawfully cultivating more than 25 plants of marijuana shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

* * *

Sec. 6b. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(22) Violations of 18 V.S.A. §§ 4230a(1)(A), relating to possession of one ounce or less of marijuana.

* * *

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Benning and Baruth?, Senator Sears, on behalf of the Committee on Judiciary, moved to substitute a recommendation of amendment for the recommendation of amendment of Senators Benning and Baruth as follows:

By striking out Sec. 6 in its entirety and inserting in lieu thereof the following:

Sec. 6. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) A person knowingly and unlawfully possessing marijuana shall be imprisoned not more than six months or fined not more than \$500.00, or both in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or less shall be fined not more than \$500.00 for a first offense and \$750.00 for a second offense, and shall be imprisoned not more than six months and fined not more than \$750.00, or both, for a third or subsequent offense. Notwithstanding any provision to the contrary, a person charged under this subdivision (1)(A) for a first or second offense shall have the option of participating in a diversion program subject to approval of the diversion board. If a person has completed diversion pursuant to this subdivision on two prior occasions, the person may participate in diversion a third or subsequent time only upon referral by the state's attorney.

(B) A person convicted of a second or subsequent offense under this subdivision knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of more than one ounce but less than two ounces shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. Upon an adjudication of guilt for a first offense under this subdivision, the court may defer sentencing as provided in section 7041 of Title 13 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances, of an aggregate weight of two ounces or more containing any marijuana or knowingly and unlawfully cultivating more than three plants of marijuana shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one pound or more containing any marijuana or knowingly and unlawfully cultivating more than ten plants of marijuana shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or

substances; of an aggregate weight of ten pounds or more or knowingly and unlawfully cultivating more than 25 plants of marijuana shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling marijuana shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances; of an aggregate weight of ~~one-half ounce~~ two ounces or more containing any marijuana shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances; of an aggregate weight of one pound or more containing any marijuana shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

* * *

Thereupon, pending the question, Shall the recommendation of amendment of Senators Benning and Baruth be substituted as recommended by Senator Sears, on behalf of the Committee on Judiciary?, Senator Ashe moved that the bill be ordered to lie.

Thereupon, pending the question, Shall the bill be ordered to lie?, Senator MacDonald moved to suspend the rules to make a nondebatable question debatable which was disagreed on a division of the Senate Yeas 12, Nays 14.

Thereupon, the pending question, Shall the bill be ordered to lie?, was decided in the affirmative on a roll call, Yeas, 13, Nays 13.

There being a tie, the Secretary took the casting vote of the President, who voted "Yea".

Senator Galbraith having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Brock, Cummings, Doyle, Flory, Fox, Giard, Kitchel, Mazza, Mullin, Snelling, Starr.

Those Senators who voted in the negative were: Baruth, Benning, Carris, Galbraith, Hartwell, Kittell, Lyons, MacDonald, McCormack, Pollina, Sears, Westman, White.

Those Senators absent and not voting were: Illuzzi, Miller, Nitka.

Message from the House No. 39

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 440. An act relating to creating an agency and secretary of education and amending the membership and purpose of the state board of education.

H. 467. An act relating to limited liability for a landowner who permits a person to enter the owner's land for recreational use.

H. 781. An act relating to making appropriations for the support of government.

In the passage of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 304. House concurrent resolution congratulating the 2012 Essex High School Division I and Northern Vermont Athletic Conference championship cheerleading team.

H.C.R. 305. House concurrent resolution congratulating the Essex High School Hornets 2012 Division I championship girls' ice hockey team.

H.C.R. 306. House concurrent resolution congratulating the Williamstown High School Blue Devils 2012 Division III championship boys' basketball team.

H.C.R. 307. House concurrent resolution congratulating Sophia Hadeka of Fair Haven on being named Miss Vermont's Outstanding Teen 2011.

H.C.R. 308. House concurrent resolution congratulating the Essex High School Hornets on winning the 2012 state gymnastics championship.

H.C.R. 309. House concurrent resolution in memory of Alan D. Overton.

H.C.R. 310. House concurrent resolution designating March 21 as Vermont Energy Independence Day.

H.C.R. 311. House concurrent resolution congratulating the U-32 Raiders 2012 Lake Division championship boys' ice hockey team.

H.C.R. 312. House concurrent resolution honoring Alice Hafner of Danville for her outstanding public service on behalf of the Vermont criminal justice system.

H.C.R. 313. House concurrent resolution congratulating Middlebury Union Middle School students Ronan Howlett and Meigan Clark on their success at the 2012 Vermont Spelling Bee.

H.C.R. 314. House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' basketball team.

H.C.R. 315. House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' Nordic skiing team.

H.C.R. 316. House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I girls' alpine state championship team.

H.C.R. 317. House concurrent resolution honoring the federal TRIO programs in Vermont.

H.C.R. 318. House concurrent resolution congratulating Vermont Railway on its selection as the 2012 Shortline Railroad of the Year.

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

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Myers and others,

H.C.R. 304.

House concurrent resolution congratulating the 2012 Essex High School Division I and Northern Vermont Athletic Conference championship cheerleading team.

By Representative Myers and others,

H.C.R. 305.

House concurrent resolution congratulating the Essex High School Hornets 2012 Division I championship girls' ice hockey team.

By Representatives Winters and Davis,

H.C.R. 306.

House concurrent resolution congratulating the Williamstown High School Blue Devils 2012 Division III championship boys' basketball team.

By Representative Canfield and others,

By Senators Carris, Flory and Mullin,

H.C.R. 307.

House concurrent resolution congratulating Sophia Hadeka of Fair Haven on being named Miss Vermont's Outstanding Teen 2011.

By Representative Myers and others,

H.C.R. 308.

House concurrent resolution congratulating the Essex High School Hornets on winning the 2012 state gymnastics championship.

By Representative Myers and others,

H.C.R. 309.

House concurrent resolution in memory of Alan D. Overton.

By Representative Edwards and others,

By Senators Lyons, MacDonald and McCormack,

H.C.R. 310.

House concurrent resolution designating March 21 as Vermont Energy Independence Day.

By Representative Klein and others,

By Senators Cummings, Doyle and Pollina,

H.C.R. 311.

House concurrent resolution congratulating the U-32 Raiders 2012 Lake Division championship boys' ice hockey team.

By Representative Toll and others,

By Senators Kitchel and Benning,

H.C.R. 312.

House concurrent resolution honoring Alice Hafner of Danville for her outstanding public service on behalf of the Vermont criminal justice system.

By Representative Jewett and others,

H.C.R. 313.

House concurrent resolution congratulating Middlebury Union Middle School students Ronan Howlett and Meigan Clark on their success at the 2012 Vermont Spelling Bee.

By Representative Till and others,

By Senators Ashe, Baruth, Fox, Lyons and Snelling,

H.C.R. 314.

House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' basketball team.

By Representative Till and others,

By Senators Ashe, Baruth, Fox, Lyons and Snelling,

H.C.R. 315.

House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' Nordic skiing team.

By Representative Till and others,

By Senators Ashe, Baruth, Fox, Lyons and Snelling,

H.C.R. 316.

House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I girls' alpine state championship team.

By Representative French and others,

H.C.R. 317.

House concurrent resolution honoring the federal TRIO programs in Vermont.

By Representative Bohi and others,

By Senators Cummings, Flory, Hartwell, Kitchel, Mazza and Westman,

H.C.R. 318.

House concurrent resolution congratulating Vermont Railway on its selection as the 2012 Shortline Railroad of the Year.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, March 27, 2012, at nine o'clock in the forenoon pursuant to J.R.S. 51.