

Journal of the Senate

SATURDAY, APRIL 28, 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. 63

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 considered Senate proposals of amendment to House bill of the following title:

H. 782. An act relating to miscellaneous tax changes for 2012.

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

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Ancel of Calais
Rep. Branagan of Georgia
Rep. Condon of Colchester

Message from the House No. 64

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 a House bill of the following title:

H. 718. An act relating to the department of public service and the public service board.

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

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

S. 128. An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe.

S. 129. An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe.

And has passed the same in concurrence.

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

S. 148. An act relating to expediting development of small and micro hydroelectric projects.

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

S. 202. An act relating to regulation of flood hazard areas, river corridors, and stream alteration.

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

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

H. 254. An act relating to consumer protection.

And has severally concurred therein.

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

H.C.R. 370. House concurrent resolution recognizing the efforts of Community Health Services of Lamoille Valley to create a seamless and more effective health care environment.

H.C.R. 371. House concurrent resolution in memory of Donald E. Prouty, Jr., of Pownal.

H.C.R. 372. House concurrent resolution in memory of former Representative Susan Webb.

H.C.R. 373. House concurrent resolution designating May 2012 as Vermont Osteoporosis Awareness Month.

H.C.R. 374. House concurrent resolution commemorating the 40th anniversary of the Retired Senior Volunteer Program's establishment in Bennington County.

H.C.R. 375. House concurrent resolution congratulating the H.W. Putnam Hose Company # 3 of the Bennington Fire Department on its 125th anniversary.

H.C.R. 376. House concurrent resolution honoring Dr. William Pendlebury, cofounder of The Memory Center at Fletcher Allen Health Care.

H.C.R. 377. House concurrent resolution honoring the Reverend Kathy Wonson Eddy for her community leadership and spiritual guidance at Bethany Church and in the town of Randolph.

H.C.R. 378. House concurrent resolution congratulating the Pepin Granite Company, Inc. on its 50th anniversary.

H.C.R. 379. House concurrent resolution congratulating Vermont Energy Investment Corporation on its 25th anniversary.

H.C.R. 380. House concurrent resolution honoring former Representative William Keogh on his retirement from the Burlington City Council and its presidency.

H.C.R. 381. House concurrent resolution recognizing the ecological importance and scenic beauty of the Lowell Mountain Range.

H.C.R. 382. House concurrent resolution in appreciation of Representative Ken Atkins of Winooski for offering M&M's[®] chocolate candies at roll call votes.

H.C.R. 383. House concurrent resolution honoring fish and game warden Sergeant Daniel Swainbank for his career accomplishments.

H.C.R. 384. House concurrent resolution honoring Burlington Fletcher Free Library co-director Amber Collins.

H.C.R. 385. House concurrent resolution honoring retiring Vermont Law School President, Dean, and Professor of Law Geoffrey B. Shields and his wife, Genie.

H.C.R. 386. House concurrent resolution honoring and extending best wishes on future endeavors to each of the 2012 retiring faculty members of the Southwest Vermont Supervisory Union.

H.C.R. 387. House concurrent resolution in memory of former Woodbury town clerk and moderator Morris P. Lilley.

H.C.R. 388. House concurrent resolution honoring librarian and Chester community leader Cynthia Collins.

H.C.R. 389. House concurrent resolution in memory of St. Michael's college alumni Michael and Jill Casey.

H.C.R. 390. House concurrent resolution honoring the 5th grade civics education initiative at Ferrisburgh Central School.

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

The Governor has informed the House that on the April 27, 2012, he approved and signed bills originating in the House of the following titles:

H. 459. An act relating to approval of amendments to the charter of the town of Brattleboro.

H. 550. An act relating to the Vermont administrative procedure act.

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

Bills Passed in Concurrence with Proposal of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposal of amendment:

H. 523. An act relating to revising the state highway condemnation law.

H. 535. An act relating to racial disparities in the Vermont criminal justice system.

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

Consideration Postponed

House bill entitled:

H. 766.

An act relating to the national guard.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Proposal of Amendment; Point of Order; Consideration Postponed

H. 780.

House bill entitled:

An act relating to compensation for certain state employees.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears, on behalf of the Committee on Judiciary moved to amend the Senate proposal of amendment as follows:

In Sec. 4, 32 V.S.A. § 1003(b)(1), in subdivision (H) (defender general), by striking out the following: “76,953” and inserting in lieu thereof the following: 84,834

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Sears?, on motion of Senator Sears action on the bill was postponed until later in the day.

Bill Amended; Consideration Postponed

H. 794.

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senators Ashe and Sears moved that the Senate proposal of amendment be amended as proposed by the Committee on Economic Development, Housing and General Affairs with further amendment thereto:

In Sec. 2 (backcountry search and rescue study committee), in subsection (c), by adding a new subdivision to be subdivision (10) to read:

(10) North Bennington Volunteer Fire Department.

Which was agreed to.

Senator Illuzzi, on behalf of the Committee on Economic Development, Housing, and General Affairs, moved to amend the proposal of amendment as follows: amended as recommended by the Committee and that it be further amended by adding Secs. 3–13 as follows:

Sec. 3. 18 V.S.A. § 901 is amended to read:

§ 901. POLICY

It is the policy of the state of Vermont that all persons who suffer sudden and unexpected illness or injury should have access to the emergency medical services system in order to prevent loss of life or the aggravation of the illness or injury, and to alleviate suffering. The system should include competent emergency medical care provided by adequately trained, licensed, and equipped personnel acting under appropriate medical control. Persons involved in the delivery of emergency medical care should be encouraged to maintain and advance their levels of training and certification, and to upgrade the quality of their vehicles and equipment.

Sec. 4. 18 V.S.A. § 903 is amended to read:

§ 903. AUTHORIZATION FOR PROVISION OF EMERGENCY MEDICAL SERVICES

Notwithstanding any other provision of law, including provisions of chapter 23 of Title 26, persons who are ~~certified~~ licensed to provide emergency medical care pursuant to the requirements of this chapter and implementing regulations are hereby authorized to provide such care without further certification, registration or licensing.

Sec. 5. 18 V.S.A. § 904 is amended to read:

§ 904. ADMINISTRATIVE PROVISIONS

(a) In order to carry out the purposes and responsibilities of this chapter, the department of health may contract for the provision of specific services.

(b) The secretary of human services, upon the recommendation of the ~~department~~ commissioner of health, may issue regulations to carry out the purposes and responsibilities of this chapter.

Sec. 6. 18 V.S.A. § 906 is amended to read:

§ 906. EMERGENCY MEDICAL SERVICES DIVISION; RESPONSIBILITIES

To implement the policy of section 901, the department of health shall be responsible for:

(1) Developing and implementing minimum standards for training emergency medical personnel in basic life support and advanced life support, and ~~certifying their~~ licensing emergency medical personnel according to their level of training and competence.

(2) Developing and implementing minimum standards for vehicles used in providing emergency medical care, designating the types and quantities of equipment that must be carried by these vehicles, and registering those vehicles according to appropriate classifications.

(3) Developing a statewide system of emergency medical services including but not limited to planning, organizing, coordinating, improving, expanding, monitoring and evaluating emergency medical services.

(4) Establishing by rule minimum standards for the credentialing of emergency medical personnel by their affiliated agency, which shall be required in addition to the licensing requirements of this chapter.

(5) Training, or assisting in the training of, emergency medical personnel.

~~(5)~~(6) Assisting hospitals in the development of programs which will improve the quality of in-hospital services for persons requiring emergency medical care.

~~(6)~~(7) Developing and implementing procedures to insure that emergency medical services are rendered only with appropriate medical control. For the provision of advanced life support, appropriate medical control shall include at a minimum:

(A) written protocols between the appropriate officials of receiving hospitals and ~~ambulance services~~ emergency medical services districts defining their operational procedures;

(B) where necessary and practicable, direct communication between emergency medical personnel and a physician or person acting under the direct supervision of a physician;

(C) when such communication has been established, a specific order from the physician or person acting under the direct supervision of the physician to employ a certain medical procedure;

(D) use of advanced life support, when appropriate, only by emergency medical personnel who are certified by the department of health to employ advanced life support procedures.

~~(7)~~(8) Establishing requirements for the collection of data by emergency medical personnel and hospitals as may be necessary to evaluate emergency medical care.

~~(8)~~(9) Establishing, by rule, ~~levels of individual certification and application forms for advanced emergency medical care~~ license levels for emergency medical personnel. The commissioner shall use the guidelines established by the National Highway Traffic Safety Administration (NHTSA) in the U.S. Department of Transportation as a standard or other comparable standards, except that a felony conviction shall not necessarily disqualify an applicant. The rules shall also provide that:

(A) An individual may apply for and obtain one or more additional ~~certifications~~ licenses, including ~~certification~~ licensure as an advanced emergency medical technician or as a paramedic.

(B) An individual ~~certified~~ licensed by the commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic, who is ~~affiliated with a licensed ambulance service, fire department, or rescue service~~ credentialed by an affiliated agency, shall be able to practice fully within the scope of practice for such level of ~~certification~~ licensure as defined by NHTSA's National EMS Scope of Practice Model

~~notwithstanding any law or rule to the contrary~~ consistent with the license level of the affiliated agency, and subject to the medical direction of the ~~commissioner or designee~~ emergency medical services district medical advisor.

(C) Unless otherwise provided under this section, an individual seeking any level of ~~certification~~ licensure shall be required to pass an examination approved by the commissioner for that level of ~~certification~~ licensure. Written and practical examinations shall not be required for ~~recertification~~ relicensure; however, to maintain ~~certification~~ licensure, all individuals shall complete a specified number of hours of continuing education as established by rule by the commissioner.

(D) If there is a hardship imposed on any applicant for a ~~certification~~ license under this section because of unusual circumstances, the applicant may apply to the commissioner for a temporary or permanent waiver of one or more of the ~~certification~~ licensure requirements, which the commissioner may grant for good cause.

(E) An applicant who has served as ~~an advanced emergency medical technician, such as a hospital corpsman or a medic in the United States Armed Forces, or who is licensed as a registered nurse or a physician's assistant~~ shall be granted a permanent waiver of the training requirements to become a ~~certified~~ licensed emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes the applicable examination approved by the commissioner for that level of ~~certification~~ licensure and further provided that the applicant is ~~affiliated with a rescue service, fire department, or licensed ambulance service~~ credentialed by an affiliated agency.

(F) An applicant who is ~~certified~~ registered on the National Registry of Emergency Medical Technicians as an ~~EMT basic, EMT intermediate, emergency medical technician, an advanced emergency medical technician,~~ or a paramedic shall be granted ~~certification~~ licensure as a Vermont ~~EMT basic, EMT intermediate, emergency medical technician, an advanced emergency medical technician,~~ or a paramedic without the need for further testing, provided he or she is ~~affiliated with an ambulance service, fire department, or rescue service,~~ credentialed by an affiliated agency or is serving as a medic with the Vermont National Guard.

(G) ~~No advanced certification shall be required for a trainee in established advanced training programs leading to certification as an advanced emergency medical technician, provided that the trainee is supervised by an individual holding a level of certification for which the trainee is training and the student is enrolled in an approved certification program.~~

(10) The commissioner shall adopt rules related to expenditures authorized from the special fund created in section 908 of this chapter.

Sec. 7. 18 V.S.A. § 908 is added to read:

§ 908. EMERGENCY MEDICAL SERVICES SPECIAL FUND

The emergency medical services special fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 comprising revenues received by the department from public and private sources as gifts, grants, and donations together with additions and interest accruing to the fund. The commissioner of health shall administer the fund to the extent funds are available to support training programs, injury prevention, data collection and analysis, and other activities relating to the training of emergency medical personnel and delivery of emergency medical services and ambulance services in Vermont, as determined by the commissioner. Any balance at the end of the fiscal year shall be carried forward in the fund.

Sec. 8. 18 V.S.A. § 909 is added to read:

§ 909. EMS ADVISORY COMMITTEE

(a) The commissioner shall establish an advisory committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

(b) The advisory committee shall be chaired by the commissioner or his or her designee and shall include the following 14 other members:

(1) four representatives of EMS districts. The representatives shall be selected by the EMS districts in four regions of the state. Those four regions shall correspond with the geographic lines used by the public safety districts pursuant to 20 V.S.A. § 5. For purposes of this subdivision, an EMS district located in more than one public safety district shall be deemed to be located in the public safety district in which it serves the greatest number of people;

(2) a representative from the Vermont Ambulance Association;

(3) a representative from the initiative for rural emergency medical services program at the University of Vermont;

(4) a representative from the professional firefighters of Vermont;

(5) a representative from the Vermont Career Fire Chiefs Association;

(6) a representative from the Vermont State Firefighters' Association;

(7) an emergency department director of a Vermont hospital appointed by the Vermont Association of Emergency Department Directors;

(8) an emergency department nurse manager of a Vermont hospital appointed by the Vermont Association of Emergency Department Nurse Managers;

(9) a pediatric emergency medicine specialist appointed by the American Academy of Pediatrics, Vermont Chapter;

(10) a representative from the Vermont Association of Hospitals and Health Systems; and

(11) one public member not affiliated with emergency medical services, firefighter services, or hospital services, appointed by the governor.

(c) The committee shall meet not less than quarterly in the first year and not less than twice annually each subsequent year and may be convened at any time by the commissioner or his or her designee or at the request of seven committee members.

(d) Beginning January 1, 2013, the committee shall report annually on the emergency medical services system to the house committees on commerce and economic development and on human services and to the senate committees on economic development, housing and general affairs and on health and welfare. The committee's initial report shall include each EMS district's response times to 911 emergencies in the previous year based on information collected from the Vermont department of health's division of emergency medical services and recommendations on the following:

(1) whether Vermont EMS districts should be consolidated such as along the geographic lines used by the four public safety districts established under 20 V.S.A. § 5; and

(2) whether every Vermont municipality should be required to have in effect an emergency medical services plan providing for timely and competent emergency responses.

Sec. 9. 24 V.S.A. § 2651 is amended to read:

§ 2651. DEFINITIONS

As used in this chapter:

(1) "Advanced emergency medical treatment" means those portions of emergency medical treatment as defined by the department of health, which may be performed by ~~eertified~~ licensed emergency medical services personnel acting under the supervision of a physician within a system of medical control approved by the department of health.

* * *

(4) “Basic emergency medical treatment” means those portions of emergency medical treatment, as defined by the department of health, which may be exercised by ~~certified~~ licensed emergency medical services personnel acting under their own authority.

* * *

(6) “Emergency medical personnel” means persons, including volunteers, ~~certified~~ licensed by the department of health to provide emergency medical treatment ~~on behalf of an organization such as an ambulance service or first responder service~~ and credentialed by an affiliated agency whose primary function is the provision of emergency medical treatment. The term does not include duly licensed or registered physicians, dentists, nurses or physicians’ assistants when practicing in their customary work setting.

* * *

(15) “Volunteer personnel” means persons who are ~~certified~~ licensed by the department of health and credentialed by an affiliated agency to provide emergency medical treatment without expectation of remuneration for the treatment rendered other than nominal payments and reimbursement for expenses, and who do not depend in any significant way on the provision of such treatment for their livelihood.

(16) “Affiliated agency” means an ambulance service or first responder service licensed under this chapter, including a fire department, rescue squad, police department, ski patrol, hospital, or other agency so licensed.

Sec. 10. 24 V.S.A. § 2657 is amended to read:

§ 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL SERVICES DISTRICTS

(a) It shall be the function of each emergency medical services district to foster and coordinate emergency medical services within the district, in the interest of affording adequate ambulance services within the district. Each emergency medical services district shall have powers which include, but are not limited to, the power to:

* * *

(3) Enter into agreements and contracts for furnishing technical, educational ~~or~~, and support services and credentialing related to the provision of emergency medical treatment.

* * *

(8) Sponsor or approve programs of education approved by the department of health which lead to the ~~certification~~ licensure of emergency medical services personnel.

(9) ~~Cooperate~~ Establish medical control within the district with physicians and representatives of medical facilities ~~to establish medical control within the district,~~ including written protocols with the appropriate officials of receiving hospitals defining their operational procedures.

(10) Assist the department of health in a program of testing for ~~certification~~ licensure of emergency medical services personnel.

(11) Assure that each affiliated agency in the district has implemented a system for the credentialing of all its licensed emergency medical personnel.

* * *

Sec. 11. 24 V.S.A. § 2682 is amended to read:

§ 2682. POWERS OF STATE BOARD

(a) The state board shall administer this subchapter and shall have power to:

(1) Issue licenses for ambulance services and first responder services under this subchapter.

* * *

(3) Make, adopt, amend, and revise, as it deems necessary or expedient, reasonable rules in order to promote and protect the health, safety, and welfare of members of the public using, served by, or in need of, emergency medical treatment. Any rule may be repealed within 90 days of the date of its adoption by a majority vote of all the district boards. Such rules may cover or relate to:

(A) Age, training, credentialing, and physical requirements for emergency medical services personnel.

* * *

Sec. 12. REPEAL

Sec. 20(c) of No. 142 of the Acts of the 2009 Adj. Sess. (2010) (EMS services exceeding scope of practice of affiliated agency) is repealed.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

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

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Illuzzi?, action on the bill was postponed until later in the day.

Consideration Resumed; Bill Amended; Bill Passed in Concurrence with Proposal of Amendment

H. 780.

Consideration was resumed on Senate bill entitled:

An act relating to compensation for certain state employees.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Sears?, was decided in the affirmative.

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

House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 403.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to foreclosure of mortgages.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: By striking Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. [DELETED]

Second: By striking Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 12 V.S.A. § 2903(b) is amended to read:

(b) A judgment which is renewed or revived pursuant to section 506 of this title shall constitute a lien on real property for eight years from the issuance of the renewed or revived judgment if recorded in accordance with this chapter. The renewed or revived judgment and shall relate back to the date on which the original lien was first recorded if a copy of the complaint to renew the

judgment was recorded in the land records where the property lies within eight years after the rendition of the judgment, and the renewed or revived judgment is subsequently recorded in accordance with this chapter.

Thereupon, the question, Shall the Senate concur in the House adoption of amendment to the Senate adoption of amendment?, was decided in the affirmative.

House Proposal of Amendment Concurred In

H. 413.

House proposal of amendment to Senate bill entitled:

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult.

Was taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By striking out Sec. 4 in its entirety and renumbering the remaining sections to be numerically correct

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 503.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

By striking out Secs. 5 through 8 in their entirety and inserting in lieu thereof the following:

Sec. 5. CONSTABLES; LAW ENFORCEMENT AUTHORITY

Notwithstanding the effective date of the amendment to 20 V.S.A. § 2358(d) set forth in Sec. 8 of No. 195 of the Acts of the 2007 Adj. Sess. (2008), any constable who, as of May 1, 2012, has commenced a basic training

course in order to obtain certification through the Vermont criminal justice training council pursuant to 20 V.S.A. § 2358 and who is not prohibited from exercising law enforcement authority pursuant to 24 V.S.A. § 1936a shall have until July 1, 2013 to complete that training and may exercise his or her law enforcement authority until July 1, 2013. Thereafter, such a constable shall comply with the provisions of 20 V.S.A. § 2358 in order to exercise law enforcement authority.

Sec. 6. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL;
CONSTABLE FIELD TRAINING

By a date that will allow those constables meeting the criteria set forth in Sec. 5 of this act (constables; law enforcement authority) to obtain certification through the Vermont criminal justice training council pursuant to 20 V.S.A. § 2358 by July 1, 2013, the council shall provide the field training necessary in order for those constables to become certified or shall provide to those constables an alternative source that will provide that field training, which may include the provision of field training by a constable of a different municipality who is a qualified field training officer and who is indemnified by the municipality of the constable receiving the field training. By January 15, 2014, the council shall report to the house and senate committees on judiciary and on government operations the sources from which constables received field training pursuant to this section.

Sec. 7. INTERIM STUDY OF AND PROPOSED PLAN FOR
LEGISLATIVE PARKING

(a) Creation of committee. There is created an interim study of legislative parking to study the issue of parking space availability as it affects members of the general assembly.

(b) Membership. The study shall be conducted by the sergeant at arms, the commissioner of buildings and general services, and the operations manager of the legislative council in consultation with members of senate and house leadership.

(c) Powers and duties. The study shall:

(1) evaluate the available parking spaces available within and around the capitol complex and, in particular, the parking spaces available for members of the general assembly;

(2) survey members of the 2011–2012 general assembly on whether there should be assigned parking spaces and, if so, the best manner in making those assignments;

(3) consider whether it is feasible to reserve 180 parking spaces for the exclusive use of members of the general assembly, taking into consideration:

(A) how those parking spaces would be allotted, such as by lottery or by seniority;

(B) the preservation of parking spaces for members who are reelected to the 2013–2014 general assembly and who currently have a parking space reserved due to having a special need, holding a leadership position, or for other circumstances; and

(C) the impact the reservations would have upon the remaining spaces currently available for capitol police, legislative staff, and others.

(d) Report. By November 15, 2012, the committee shall report electronically to the speaker of the house; the president pro tempore of the senate; the chairs of the house committee on corrections and institutions and the senate committee on institutions; and to each member of the general assembly its findings and a proposed plan that may be implemented by January 9, 2013.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

And that after passage the title of the bill be amended to read:

An act relating to the certification of capitol police and constables and to legislative traffic control and parking.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 37.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to telemedicine.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: In Sec. 4, in 18 V.S.A. § 9361, in subsection (b), after the (b), by inserting two new sentences to read: “A patient receiving teleophthalmology or

tele dermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable time of the patient's notification of the results of the initial consultation."

Second: In Sec. 5, Rulemaking, in subsection (b), by striking "banking, insurance, securities, and health care administration" and inserting in lieu thereof "financial regulation"

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Joint Resolution Amended; Third Reading Ordered

J.R.S. 58.

Senator Pollina, for the Committee on Finance, to which was referred joint Senate resolution entitled:

Joint resolution relating to respectful language in the Vermont Statutes Annotated.

Reported recommending that the joint resolution be amended by striking out all after the title and inserting in lieu thereof the following:

Whereas, the State of Vermont is committed to eliminating all forms of abuse and harassment and to protecting the civil rights of all Vermonters, and

Whereas, this commitment includes achieving long-term systemic change to end discrimination against people with disabilities, and

Whereas, deliberate use of disrespectful language directed at people with disabilities is a form of harassment and abuse, and

Whereas, even if a word or phrase was not originally used with discriminatory intent, evolving societal perceptions may now cause the word or phrase to be viewed as showing disrespect to persons with disabilities, and

Whereas, the general assembly enacted Act No. 24 of 2011 directing that a working group under the supervision of the agency of human services identify instances in the Vermont Statutes Annotated of language that is now viewed as disrespectful to persons with disabilities, and

Whereas, the working group prepared a comprehensive inventory of instances where disrespectful language appears in the Vermont Statutes Annotated and recommended alternative words and phrases as replacements, and

Whereas, the general assembly desires that respectful language be used when referring to persons with disabilities, both in legislative deliberations and in the Vermont Statutes Annotated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly requests that the legislative council prepare a bill that will propose to amend the Vermont Statutes Annotated by replacing words and phrases as recommended by the study group created pursuant to Act No. 24 of 2011.

Thereupon, the question, Shall the joint resolution be amended as recommended by Senator Pollina?, was decided in the affirmative.

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

Proposals of Amendment; Third Reading Ordered

H. 475.

Senator MacDonald, for the Committee on Finance, to which was referred House bill entitled:

An act relating to net metering and definitions of capacity.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 2 (implementation; solar registration), by striking out “30 days” and inserting in lieu thereof 21 days

Second: In Sec. 3, 30 V.S.A. § 219a(e) (net metering systems; electric energy measurement), after subdivision (3), by striking out subdivision (4) and inserting in lieu thereof a new subdivision (4) to read:

(4) For a net metering systems using time-of-day system serving a customer on a demand or other types of metering time-of-use rate schedule, the board shall specify the manner of measurement and the application of bill credits for the electric energy produced or consumed in a manner shall be substantially similar to that specified in this subsection for use with a single nondemand meter. However, if such a net metering system is interconnected directly to the electric company through a separate meter whose primary purpose is to measure the energy generated by the system:

(A) The bill credits shall apply to all kWh generated by the net metering system and shall be calculated as if the customer were charged the kWh rate component of the interconnecting company’s general residential rate

schedule that consists of two rate components: a service charge and a kWh rate, excluding time-of-use rates and demand rates.

(B) If a company's general residential rate schedule includes inclining block rates, the residential rate used for this calculation shall be the highest of those block rates.

Third: By striking out Sec. 4 (30 V.S.A. § 219a(f)(2) and (3)) and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 30 V.S.A. § 219a(f) is amended to read:

(f) Consistent with the other provisions of this title, electric energy measurement for group net metering systems shall be calculated in the following manner:

* * *

(2) Electric energy measurement for group net metering systems shall be calculated by subtracting total usage of all meters included in the group net metering system from total generation by the group net metering system. If the electricity generated by the group net metering system is less than the total usage of all meters included in the group net metering system during the billing period, the group net metering system shall be credited for any accumulated ~~kilowatt-hour~~ credit and then billed for the net electricity supplied by the electric company, in accordance with the procedures in subsection (g)(group net metering) of this section.

* * *

(4) The board shall apply the provisions of subdivision (e)(4) of this section (measurement and credits; nonstandard meters) to group net metering systems that serve one or more customers who are on a demand or time-of-use rate schedule.

Fourth: By striking out Sec. 7 (net metering; study; report) and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. NET METERING; STUDY; REPORT

No later than January 15, 2013, the department of public service (the department) shall perform a general evaluation of Vermont's net metering statute, rules, and procedures and shall submit the evaluation and any accompanying recommendations to the general assembly. Among any other issues related to net metering that the department may deem relevant, the report shall include an analysis of whether and to what extent customers using net metering systems under 30 V.S.A. § 219a are subsidized by other retail electric customers who do not employ net metering. The analysis also shall

include an examination of any benefits or costs of net metering systems to Vermont's electric distribution and transmission systems and the extent to which customers owning net metering systems do or do not contribute to the fixed costs of Vermont's retail electric utilities. Prior to completing the evaluation and submitting the report, the department shall offer an opportunity for interested persons such as the retail electric utilities and renewable energy developers and advocates to submit information and comment.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, Senator MacDonald moved that the report of the Committee on Finance be amended as follows:

In Sec. 9 (effective dates; retroactive application), by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Notwithstanding 1 V.S.A. §§ 213 and 214, Sec. 8 of this act (amending the definition of plant capacity) shall apply to solar energy plants that:

(1) have executed a standard offer contract under 30 V.S.A. chapter 89; and

(2) are commissioned, within the meaning of 30 V.S.A. § 8002(11), on or after January 1, 2012.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 506.

Senator Ashe, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to vinous beverages.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

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

* * *

(6) “Caterer’s ~~permit~~ license”: a ~~permit~~ license issued by the liquor control board authorizing the holder of a first class license or first and third class licenses for a cabaret, restaurant, or hotel premises to serve malt or vinous beverages or spirituous liquors at a function located on premises other than those occupied by a first, first and third, or second class licensee to sell alcoholic beverages.

* * *

(7) “Club”: an unincorporated association or a corporation authorized to do business in this state, that has been in existence for at least two consecutive years prior to the date of application for license under this title and owns, hires, or leases a building or space in a building that is suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and contains suitable and adequate kitchen and dining room space and equipment implements and facilities. A club may be used or leased by a nonmember as a location for a social event as if it were any other licensed commercial establishment. Such club shall file with the liquor control board, before May 1 of each year, a list of the names and residences of its members and a list of its officers. Its affairs and management shall be conducted by a board of directors, executive committee, or similar body chosen by the members at its annual meeting, and no member or any officer, agent, or employee of the club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquors to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at annual meetings by the members or by its directors or other governing body, and as reported by the club to the liquor control board. An auxiliary member of a club may invite one guest at any one time. An officer or director of a club may perform the duties of a bartender without receiving any payment for that service, provided the officer or director is in compliance with the requirements of this title that relate to service of alcoholic beverages. An officer, member, or director of a club may volunteer to perform services at the club other than serving alcoholic beverages, including seating patrons and checking identification, without receiving payment for those services. An officer, member, or director of a club who volunteers his or her services shall not be considered to be an employee of the club. A bona fide unincorporated

association or corporation whose officers and members consist solely of veterans of the armed forces of the United States, or a subordinate lodge or local chapter of any national fraternal order, and which fulfills all requirements of this subdivision, except that it has not been in existence for two years, shall come within the terms of this definition six months after the completion of its organization. A club located on and integrally associated with at least a regulation nine-hole golf course need only be in existence for six months prior to the date of application for license under this title.

* * *

(19) “Second class license”: a license granted by the control commissioners permitting the licensee to export vinous beverages and to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted.

* * *

(28) “Fourth class license” or “farmers’ market license”: the license granted by the liquor control board permitting a manufacturer or rectifier of malt or vinous beverages or spirits to sell by the unopened container and distribute, by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth class and farmers’ market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth class license location, a manufacturer or rectifier of vinous beverages may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages produced by no more than ~~three~~ five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier of vinous beverages may sell its product to no more than ~~three~~ five additional manufacturers or rectifiers. A fourth class licensee may distribute by the glass no more than two ounces of malt or vinous beverage with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits with a total of one ounce to each retail customer for consumption on the manufacturer’s premises or at a farmers’ market. A farmers’ market license is valid for all dates of operation for a specific farmers’ market location.

* * *

(33) “Commercial catering license”: A license granted by the board permitting a business licensed by the department of health as a commercial caterer and having a commercial kitchen facility in the home or place of business to sell malt, vinous, or spirituous liquors at a function previously approved by the local licensing authority.

Sec. 1a. 7 V.S.A. § 222 is amended to read:

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

With the approval of the liquor control board, the control commissioners may grant to a retail dealer for the premises where the dealer carries on business the following:

* * *

(2) Upon making application and paying the license fee provided in section 231 of this title, a second class license for the premises where such dealer shall carry on the business which shall authorize such dealer to export vinous beverages and to sell malt and vinous beverages to the public from such premises for consumption off the premises and upon satisfying the liquor control board that such premises are leased, rented or owned by such retail dealers and are safe, sanitary and a proper place from which to sell malt and vinous beverages. A retail dealer carrying on business in more than one place shall be required to acquire a second class license for each place where he shall so sell malt and vinous beverages. No malt or vinous beverages shall be sold by a second class licensee to a minor.

* * *

Sec. 2. 7 V.S.A. § 66 is amended to read:

§ 66. VINOUS BEVERAGE SHIPPING LICENSE; IN STATE; OUT OF STATE; PROHIBITIONS; PENALTIES

* * *

(c) A manufacturer or rectifier of vinous beverages that is licensed in-state or out-of-state and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the department of liquor control an application in a form required by the department accompanied by a copy of their in-state or out of state license and the fee as required by subdivision 231(7)(C) of this title. The retail shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(C) of this title accompanied by the licensee's current in-state or out-of-state manufacturer's license. This license permits the holder, which includes the holder's affiliates, franchises, and subsidiaries, to sell up to ~~2,000~~ 5,000 gallons of vinous beverages a year directly to first or second class licensees and deliver the beverages by common carrier or the manufacturer's or rectifier's own vehicles or the vehicle of an employee of a manufacturer or rectifier, provided that the beverages are sold on invoice, and no more than ~~40~~ 100 gallons per month are sold to any single first or second class licensee. The

retail shipping license holder shall ~~provide~~ report to the department documentation of the annual and monthly number of gallons sold.

* * *

(e) A holder of any shipping license granted pursuant to this section shall:

* * *

(4) Report at least twice a year to the department of liquor control if the holder of a direct consumer shipping license and once a year if the holder of a retail shipping license in a manner and form required by the department all the following information:

(A) The total amount of vinous beverages shipped into or within the state for the preceding six months if a holder of a direct consumer shipping license or every twelve months if a holder of a retail shipping license.

(B) The names and addresses of the purchasers to whom the vinous beverages were shipped.

(C) The date purchased, if appropriate, the name of the common carrier used to make each delivery, and the quantity and value of each shipment.

* * *

Sec. 3. 7 V.S.A. § 67 is amended to read:

§ 67. ALCOHOLIC BEVERAGE TASTINGS; PERMIT; PENALTIES

* * *

(b) A wine or beer tasting event held pursuant to subdivisions (a)(1) and (2) of this section, not including an alcohol beverage tasting conducted on the premises of the manufacturer or rectifier, shall comply with the following:

(1) Continue for no more than six hours, with no more than six beverages to be offered at a single event, and no more than two ounces of any single beverage and no more than a total of eight ounces of various vinous or malt beverages to be dispensed to a customer. No more than eight customers may be served at one time.

(2) Be conducted totally within ~~an area that is clearly cordoned off by barriers that extend~~ a designated area that extends no further than 10 feet from the point of service; and a that is marked by a clearly visible sign that clearly states that no one under the age of 21 may participate in the tasting ~~shall be placed in a visible location at the entrance to the tasting area.~~

* * *

Sec. 4. 7 V.S.A. § 238 is amended to read:

§ 238. CATERER'S ~~PERMIT~~ LICENSE, GRANTING OF; SALE TO MINORS

(a) The liquor control board may issue a caterer's ~~permit~~ license only to those persons who hold a current first ~~and third~~ class license or current first and third class licenses for a restaurant or hotel premises.

(b) The board may issue a commercial catering license only to those persons who hold a first class license or current first and third class licenses.

(c) The liquor control board shall promulgate rules or regulations as it deems necessary to effectuate the purposes of this section.

~~(e)~~(d) No malt or vinous beverages or spirituous liquors shall be sold or served to a minor by a holder of a caterer's ~~permit~~ license.

~~(d)~~(e) Notwithstanding the provisions of subsection (a) of this section, the liquor control board may issue a caterer's ~~permit~~ license to a licensed manufacturer or rectifier who holds a current first class license.

Sec. 5. 7 V.S.A. § 238a is amended to read:

§ 238a. OUTSIDE CONSUMPTION PERMITS; ~~GOLF COURSES;~~
~~WINERIES~~ FIRST, THIRD, AND FOURTH CLASS LICENSEES

Pursuant to regulations of the liquor control board, an outside consumption permit may be granted to the holder of a first or first and third class ~~license~~ licenses for all or part of the outside premises of a golf course or to the holder of a fourth class license for all or part of the outside premises ~~of a winery for consumption of wine produced on the premises~~ of the license holder, provided that such permit is first obtained from the local control commissioners and approved by the board.

Sec. 6. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(8)(A) For a caterer's ~~permit~~ license, \$200.00.

(B) For a commercial catering license, \$200.00.

* * *

Sec. 7. 7 V.S.A. § 104 is amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The board shall have supervision and management of the sale of spirituous liquors within the state in accordance with the provisions of this title, and through the commissioner of liquor control shall:

(1) See that the laws relating to intoxicating liquor and to the manufacture, sale, transportation, barter, furnishing, importation, exportation, delivery, prescription and possession of malt and vinous beverages, spirituous liquors and alcohol by licensees and others are enforced, using for that purpose such of the moneys annually available to the liquor control board as may be necessary. However, the liquor control board and its agents and inspectors shall act in this respect in collaboration with sheriffs, deputy sheriffs, constables, officers and members of village and city police forces, control commissioners, the attorney general, state's attorneys, and town and city grand jurors. When the board acts to enforce any section of this title or any administrative rule or regulation relating to sale to minors, its investigation on the alleged violation shall be forwarded to the attorney general or the appropriate state's attorney whether or not there is an administrative finding of wrongdoing. Nothing in this section shall be deemed to affect the responsibility or duties of such enforcement officers or agencies with respect to the enforcement of such laws. The commissioner or his or her designee is authorized to prosecute administrative matters under this section and shall have the authority to enter into direct negotiations with a licensee to reach a proposed resolution or settlement of an alleged violation, subject to board approval, or dismissal with or without prejudice.

* * *

And that after passage the title of the bill be amended to read:

An act relating to commercial catering licenses, the export of malt and vinous beverages, and outside consumption permits.

And that the bill ought to pass in concurrence with such proposal of amendment.

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

Third Reading Ordered**H. 792.**

Senator Flory, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the city of Burlington.

Reported that the bill ought to pass in concurrence.

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

Third Reading Ordered**H. 793.**

Senator Pollina, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the Winooski incorporated school district.

Reported that the bill ought to passage in concurrence.

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

House Proposal of Amendment Concurred In**S. 223.**

House proposal of amendment to Senate bill entitled:

An act relating to health insurance coverage for early childhood developmental disorders, including autism spectrum disorders.

Was taken up.

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

Sec. 1. 8 V.S.A. § 4088i is amended to read:

§ 4088i. ~~COVERAGE FOR DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM~~ EARLY CHILDHOOD DEVELOPMENTAL DISORDERS

(a)(1) A health insurance plan shall provide coverage for the evidence-based diagnosis and treatment of ~~autism spectrum disorders~~ early childhood developmental disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst, for children,

beginning at ~~18 months of age~~ birth and continuing until the child reaches age ~~six or enters the first grade, whichever occurs first~~ 21.

(2) Coverage provided pursuant to this section by Medicaid, the Vermont health access plan, or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

(3) Any benefits required by this section that exceed the essential health benefits specified under Section 1302(b) of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended, shall not be required in a health insurance plan offered in the individual, small group, and large group markets on and after January 1, 2014.

(b) A health insurance plan shall not limit in any way the number of visits an individual eligible for coverage under subsection (a) of this section may have with an autism services provider. The amount, frequency, and duration of treatment described in this section shall be based on medical necessity and may be subject to a prior authorization requirement under the health insurance plan.

(c) A health insurance plan shall not impose greater coinsurance, co-payment, deductible, or other cost-sharing requirements for coverage of the diagnosis or treatment of ~~autism spectrum~~ early childhood developmental disorders than apply to the diagnosis and treatment of any other physical or mental health condition under the plan.

(d)(1) A health insurance plan shall provide coverage for applied behavior analysis when the services are provided or supervised by a licensed provider who is working within the scope of his or her license or who is a nationally board-certified behavior analyst.

(2) A health insurance plan shall provide coverage for services under this section delivered in the natural environment when the services are furnished by a provider working within the scope of his or her license or under the direct supervision of a licensed provider or, for applied behavior analysis, by or under the supervision of a nationally board-certified behavior analyst.

(e) Except for inpatient services, if an individual is receiving treatment for an early developmental delay, the health insurance plan may require treatment plan reviews based on the needs of the individual beneficiary, consistent with reviews for other diagnostic areas and with rules established by the department of financial regulation. A health insurance plan may review the treatment plan for children under the age of eight no more frequently than once every six months.

(f) As used in this section:

(1) “Applied behavior analysis” means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior. The term includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

~~(2) “Autism services provider” means any licensed or certified person providing treatment of autism spectrum disorders.~~

~~(3) “Autism spectrum disorders” means one or more pervasive developmental disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, pervasive developmental disorder not otherwise specified, and Asperger’s disorder.~~

~~(3) “Behavioral health treatment” means evidence-based counseling and treatment programs, including applied behavior analysis, that are:~~

~~(A) necessary to develop skills and abilities for the maximum reduction of physical or mental disability and for restoration of an individual to his or her best functional level, or to ensure that an individual under the age of 21 achieves proper growth and development;~~

~~(B) provided or supervised by a nationally board-certified behavior analyst or by a licensed provider, so long as the services performed are within the provider’s scope of practice and certifications.~~

~~(4) “Diagnosis of autism spectrum disorder early childhood developmental disorders” means medically necessary assessments, evaluations, ~~including neuropsychological evaluations; genetic testing; or other testing or tests~~ to determine whether an individual has ~~one or more~~ an early childhood developmental delay, including an autism spectrum disorders disorder.~~

~~(5) “Habilitative care” or “rehabilitative care” means professional counseling, guidance, services, and treatment programs, including applied behavior analysis and other behavioral health treatments, in which the covered individual makes clear, measurable progress, as determined by an autism services provider, toward attaining goals the provider has identified. “Early childhood developmental disorder” means a childhood mental or physical impairment or combination of mental and physical impairments that results in functional limitations in major life activities, accompanied by a diagnosis defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Disease (ICD). The term includes autism spectrum disorders, but does not include a learning disability.~~

(6) “Evidence-based” means the same as in 18 V.S.A. § 4621.

(7) “Health insurance plan” means Medicaid, the Vermont health access plan, and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this state by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include benefit plans providing coverage for specific diseases or other limited benefit coverage.

~~(7)(8)~~ “Medically necessary” ~~means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a physician licensed pursuant to chapter 23 of Title 26 or by a psychologist licensed pursuant to chapter 55 of Title 26 if such treatment is consistent with the most recent relevant report or recommendations of the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, or another professional group of similar standing~~ describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual’s diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(9) “Natural environment” means a home or child care setting.

(10) “Pharmacy care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need for or effectiveness of a medication.

(11) “Psychiatric care” means direct or consultative services provided by a licensed physician certified in psychiatry by the American Board of Medical Specialties.

(12) “Psychological care” means direct or consultative services provided by a psychologist licensed pursuant to 26 V.S.A. chapter 55.

~~(8)(13)~~ “Therapeutic care” means services provided by licensed or certified speech language pathologists, occupational therapists, or physical therapists, ~~or social workers.~~

~~(9)(14)~~ “Treatment of disorders for early developmental disorders” means ~~the following~~ evidence-based care and related equipment prescribed, provided, or ordered for an individual diagnosed with one or more autism spectrum disorders by a physician licensed pursuant to chapter 23 of Title 26 licensed health care provider or a licensed psychologist licensed pursuant to

~~chapter 55 of Title 26 if such physician or psychologist~~ who determines the care to be medically necessary, including:

- (A) ~~habilitative or rehabilitative care~~ behavioral health treatment;
- (B) pharmacy care;
- (C) psychiatric care;
- (D) psychological care; and
- (E) therapeutic care.

~~(e)~~(g) Nothing in this section shall be construed to affect any obligation to provide services to an individual under an individualized family service plan, individualized education program, or individualized service plan. A health insurance plan shall not reimburse services provided under 16 V.S.A. § 2959a.

(h) It is the intent of the general assembly that the department of financial regulation facilitate and encourage health insurance plans to bundle co-payments accrued by beneficiaries receiving services under this section to the extent possible.

Sec. 2. REPORT

The agency of human services shall submit a report, in consultation with Autism Speaks and health insurers, to the senate committee on health and welfare and the house committee on health care on or before January 15, 2014 regarding the implementation of this act, including an assessment of whether eligible individuals are receiving evidence-based services, how such services may be improved, and the fiscal impact of these services.

Sec. 3. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2012 and shall apply to Medicaid, the Vermont health access plan, and any other public health care assistance program on or after July 1, 2012.

(b) The provisions of this act shall apply to all other health insurance plans on or after October 1, 2012, on such date as a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2013.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; Bills Passed in Concurrence

H. 475.

Pending entry on the Calendar for action tomorrow, on motion of Senator Mazza, the rules were suspended and House bill entitled:

An act relating to net metering and definitions of capacity.

Was placed on all remaining stages of its passage in concurrence forthwith.

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

H. 792.

Pending entry on the Calendar for action tomorrow, on motion of Senator Mazza, the rules were suspended and House bill entitled:

An act relating to approval of amendments to the charter of the city of Burlington.

Was placed on all remaining stages of its passage in concurrence forthwith.

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

H. 793.

Pending entry on the Calendar for action tomorrow, on motion of Senator MacDonald, the rules were suspended and Senate bill entitled:

An act relating to approval of amendments to the charter of the Winooski incorporated school district.

Was placed in all remaining stages of its passage forthwith.

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

Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment

H. 506.

Pending entry on the Calendar for action tomorrow, on motion of Senator MacDonald, the rules were suspended and House bill entitled:

An act relating to vinous beverages.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

Rules Suspended; Joint Resolution Adopted

J.R.S. 58.

Pending entry on the Calendar for action tomorrow, on motion of Senator Mazza, the rules were suspended and joint Senate resolution entitled:

Joint resolution relating to respectful language in the Vermont Statutes Annotated.

Was placed on all remaining stages of its adoption forthwith.

Thereupon, the joint resolution was read the third time and adopted.

Rules Suspended; Bills Messaged

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 223, J.R.S. 58, H. 37, H. 403, H. 413, H. 475, H. 503, H. 506, H. 523, H. 535, H. 556, H. 751, H. 769, H. 771, H. 780, H. 792, H. 793.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 189.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

Sec. 1. 3 V.S.A. § 164(c)(1) is amended to read:

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

(1) The diversion project shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The state's attorney shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. If the prosecuting attorney refers a case to diversion, the ~~information and affidavit~~ prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the state's attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the board declines to accept the case;

(B) the person declines to participate in diversion; ~~or~~

(C) the board accepts the case, but the person does not successfully complete diversion;

(D) the state's attorney recalls the referral to diversion.

Sec. 2. 3 V.S.A. § 164a is added to read:

§ 164a. RESTITUTION

(a) A diversion program may refer an individual who has suffered a pecuniary loss as a direct result of a delinquent act or crime alleged to have been committed by a juvenile or adult accepted to its program to the restitution unit established by 13 V.S.A. § 5362 for the purpose of application for an advance payment pursuant to 13 V.S.A. § 5363(d)(1). The restitution unit may enter into a repayment contract with a juvenile or adult accepted into diversion and shall have the authority to bring a civil action to enforce the repayment contract in the event that the juvenile or adult defaults in performing the terms of the contract.

(b) The restitution unit and the diversion program shall develop a process for documenting victim loss, information sharing between the unit and diversion programs regarding the amount of restitution paid by the unit and diversion participants' contractual agreements to reimburse the unit, transmittal of payments from participants to the unit, and maintenance of the confidentiality of diversion information.

Sec. 3. 13 V.S.A. § 5362 is amended to read:

§ 5362. RESTITUTION UNIT

* * *

(c) The restitution unit shall have the authority to:

* * *

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

Sec. 4. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIMS' RESTITUTION SPECIAL FUND

(a) There is hereby established in the state treasury a fund to be known as the crime victims' restitution special fund, to be administered by the restitution unit established by section 5362 of this title, and from which payments may be made to provide restitution to crime victims.

(b)(1) There shall be deposited into the fund:

(A) All monies collected by the restitution unit pursuant to section 7043 and subdivision 5362(c)(7) of this title.

(B) All fees imposed by the clerk of court and designated for deposit into the fund pursuant to section 7282 of this title.

(C) All monies donated to the restitution unit or the crime victims' restitution special fund.

(D) Such sums as may be appropriated to the fund by the general assembly.

* * *

(d)(1) The restitution unit is authorized to advance up to \$10,000.00 to a victim or to a deceased victim's heir or legal representative if the victim:

(A) was first ordered by the court to receive restitution on or after July 1, 2004;

(B) is a natural person or the natural person's legal representative; and

(C) has not been reimbursed under subdivision (2) of this subsection;

(D) is a natural person and has been referred to the restitution unit by a diversion program pursuant to 3 V.S.A. § 164a.

* * *

Sec. 5. 13 V.S.A. § 7043(n) is amended to read:

(n) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure of an offender aged 18 or older shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

Sec. 6. 13 V.S.A. § 5360 is added to read:

§ 5360. APPLICATION INFORMATION; CONFIDENTIALITY

(a) All documents reviewed by the victims' compensation board for purposes of approving an application for compensation shall be confidential and shall not be disclosed without the consent of the victim except as provided in this section and subsection 7043(c) of this title.

(b) For the purpose of requesting restitution, the amount of assistance provided by the victim's compensation board shall be established by copies of bills submitted to the victim's compensation board reflecting the amount paid by the board and stating that the services for which payment was made were for uninsured pecuniary losses.

(c) The following shall be confidential and shall be redacted by the victim's compensation board for any purpose including restitution: the victim's residential address, telephone number, and other contact information and the

victim's social security number. In cases involving stalking, sexual offense, and domestic violence, the following information shall also be confidential and shall not be disclosed by the victim's compensation board for any purpose including restitution:

(1) the victim's employer's name, telephone number, address, or any other contact information; and

(2) the victim's medical or mental health provider's name, telephone number, address, or any other contact information.

Sec. 7. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

* * *

(b)(1) When ordered, restitution may include:

(A) return of property wrongfully taken from the victim;

(B) cash, credit card, or installment payments paid to the restitution unit; or

(C) payments in kind, if acceptable to the victim.

(2) In the event of a victim's crime-related death, the court may, at the request of the restitution unit, direct the unit to pay up to \$10,000.00 from the restitution fund to the victim's estate to cover future uninsured material losses caused by the death.

(c) Restitution hearing.

(1) Unless the amount of restitution is agreed to by the parties at the time of sentencing, the court shall set the matter for a restitution hearing.

(2) Prior to the date of the hearing, the state's attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the victim's compensation fund, the state's attorney shall provide the defendant with copies of bills submitted by the victim's compensation board pursuant to section 5360 of this title.

(3) Absent consent of the victim, medical and mental health records submitted to the victim's compensation board shall not be discoverable for the purposes of restitution except by order of the court. If the defendant files a motion to view copies of such records, the state's attorney shall file the records with the court under seal. The court shall conduct an in camera review of the records to determine what records, if any, are relevant to the parties' dispute with respect to restitution. If the court orders disclosure of the documents, the

court shall issue a protective order defining the extent of dissemination of the documents to any person other than the defendant, the defendant's attorney, and the state's attorney. In no event shall the court permit disclosure of information in a document provided by the victim's compensation board that is confidential under subsection 5360(c) of this title.

~~(e)~~(d) In awarding restitution, the court shall make findings with respect to:

(1) The total amount of the material loss incurred by the victim. If sufficient documentation of the material loss is not available at the time of sentencing, the court shall set a hearing on the issue, and notice thereof shall be provided to the offender.

(2) The offender's current ability to pay restitution, based on all financial information available to the court, including information provided by the offender.

~~(d)~~(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the court shall establish a restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection ~~(k)~~(l) of this section. Notwithstanding 12 V.S.A. chapter 113 ~~of Title 12~~ or any other provision of law, interest shall not accrue on a restitution judgment.

* * *

~~(e)~~(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.

* * *

~~(f)~~(g)(1) When restitution is requested but not ordered, the court shall set forth on the record its reasons for not ordering restitution.

* * *

~~(g)~~(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

~~(h)~~(i)(1) The court shall transmit a copy of a restitution order to the restitution unit, which shall make payment to the victim in accordance with section 5363 of this title.

* * *

~~(i)~~(j) The restitution unit may bring an action, including a small claims procedure, to enforce a restitution order against an offender in the civil division of the superior court of the unit where the offender resides or in the unit where the order was issued. In an action under this subsection, a restitution order issued by the criminal division of the superior court shall be enforceable in the civil division of the superior court or in a small claims procedure in the same manner as a civil judgment. Superior and small claims filing fees shall be waived for an action under this subsection, and for an action to renew a restitution judgment.

~~(j)~~(k) All restitution payments shall be made to the restitution unit, with the exception of restitution relating to a conviction for welfare fraud ordered under this section and recouped by the economic services division. The economic services division shall provide the restitution unit with a monthly report of all restitution collected through recoupment. This subsection shall have no effect upon the collection or recoupment of restitution ordered under Title 33.

~~(k)~~(l) The sentencing court may modify the payment schedule of a restitution order if, upon motion by the restitution unit or the offender, the court finds that modification is warranted by a substantial change in circumstances.

~~(l)~~(m) If the offender fails to pay restitution as ordered by the court, the restitution unit may file an action to enforce the restitution order in superior or small claims court. After an enforcement action is filed, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the restitution unit, the victim, and the offender. If the court determines the offender has failed to comply with the restitution order, the court may take any action the court deems necessary to ensure the offender will make the required restitution payment, including:

* * *

~~(m)~~(n)(1) Any monies owed by the state to an offender who is under a restitution order, including lottery winnings and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

* * *

~~(n)~~(o) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

~~(o)~~(p) An obligation to pay restitution is part of a criminal sentence and is:

* * *

~~(p)~~(q) A transfer of property made with the intent to avoid a restitution obligation shall be deemed a fraudulent conveyance for purposes of 9 V.S.A. chapter 57 of Title 9, and the restitution unit shall be entitled to the remedies of creditors provided under 9 V.S.A. § 2291.

Sec. 8. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(40) ~~Records~~ records of genealogy provided in support of an application for tribal recognition pursuant to chapter 23 of this title;

(41) documents reviewed by the victim's compensation board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ 5360 and 7043(c).

Sec. 9. EFFECTIVE DATE

(a) Sections 1, 2, 3, 4, and 5 shall take effect on July 1, 2012.

(b) Sections 6, 7, 8, and this section shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

**House Proposal of Amendment Not Concurred In; Committee of
Conference Requested**

S. 244.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill as follows:

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

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

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

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

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

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

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

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the driving with license suspended diversion program shall not be counted as prior offenses under subdivision (2) of this subsection.

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

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

§ 2502. POINT ASSESSMENT; SCHEDULE

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

* * *

(4) Five points assessed for:

* * *

(D)	§ 676.	Operating after suspension, revocation or refusal — civil violation;
-----	-------------------	---

* * *

(5) Ten points assessed for:

(A)	§ 674.	Operating after suspension or revocation of license;
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* * *

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

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

§ 2506. PROCEDURE

When a sufficient number of points have been acquired, the commissioner shall suspend the license of an operator or the privilege of an unlicensed person, or nonresident to operate a motor vehicle, upon not less than 10 days' notice, and upon hearing, if requested for verification of the conviction records. The suspension shall be for 10 days for an accumulation of 10 points, 30 days for 15 points, 90 days for 20 points and for a period increasing by 30 days for each additional 5 points; except the suspension period for a conviction for first offense of sections ~~674~~, 1091, 1094, 1128, and 1133 of this title shall be 30 days; for a second conviction 90 days and for a third or subsequent six months, or the suspension period under the point values, whichever is greater. If a fatality occurs, the suspension shall be for a period of one year in addition to the suspension under the point values. For purposes of this section, a month shall be considered as 30 days and one year shall equal 365 days.

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

Sec. 5. SUNSET

This act shall be repealed on July 1, 2015.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

**House Proposal of Amendment Not Concurred In; Committee of
Conference Requested**

S. 251.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by adding four new sections after Sec. 11 to be sections 12–15 to read as follows:

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

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

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

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

(B) Next-of-kin plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces not eligible for gold star plates under subdivision (A) of this subdivision (1) who lost their lives while serving on active duty or on active duty for training, or while assigned in a reserve or national guard unit in drill status, or as a result of injury or illness incurred during such service or assignment.

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

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

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

§ 1112. CLOSED HIGHWAYS

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

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

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

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

§ 2502. POINT ASSESSMENT; SCHEDULE

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

(1) Two points assessed for:

* * *

- | | |
|------------------------------|---|
| (LL) § 1095. | Operating with television set installed
<u>Entertainment picture visible to the operator;</u> |
| (MM) § 1099. | Texting prohibited—first offense; |
| (NN) § 1112. | <u>Closed highways;</u> |
| (NN) (OO) § 1113. | Illegal backing; |

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

* * *

* * * Conforming Change * * *

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

(5) "All-terrain vehicle" or "ATV" means any nonhighway recreational vehicle, except snowmobiles, having no less than two low pressure tires (10 pounds per square inch, or less), not wider than 60 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails

or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and ~~(ZZ)~~(BBB); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

And by renumbering the remaining section to be numerically correct.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Kitchel, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

**House Proposal of Amendment Not Concurred In; Committee of
Conference Requested**

S. 245.

House proposal of amendment to Senate bill entitled:

An act relating to requiring cardiovascular care instruction in public and independent schools.

Was taken up.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 1, 16 V.S.A. § 131, by striking out subdivision (3)(B) in its entirety and inserting in lieu thereof a new subdivision (3)(B) to read:

(B) information regarding and practice of cardiopulmonary resuscitation by people who are not health care professionals and the use of automated external defibrillators;

Second: By striking out Sec. 2 in its entirety and by renumbering "Sec. 3" to be "Sec. 2"

Third: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new section to be Sec. 3 to read:

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Mullin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

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

H. 761.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to executive branch fees, including motor vehicle and fish and wildlife fees.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

In Sec. 2a, by striking out Sec. 2a and inserting in lieu thereof a new Sec. 2a to read:

Sec. 2a. 26 V.S.A. § 4806 is amended to read:

§ 4806. FEES; DISPOSITIONS

(a) Notwithstanding the fee provisions of 3 V.S.A. § 125, applicants and persons regulated under this chapter shall pay the following fees:

- (1) Annual event permit applications:
 - (A) Auto racing \$ 800.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 500.00;
- (2) Unlimited event permit applications:
 - (A) Auto racing \$ 1,250.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 1,250.00;
- (3) Single event permit applications:
 - (A) Auto racing \$ 500.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 500.00;
- (4) Annual event permit biennial ~~renewal~~ renewals:
 - (A) Auto racing \$ 500.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 500.00;
- (5) Unlimited event permit biennial ~~renewal~~ renewals:
 - (A) Auto racing \$ 2,500.00;
 - (B) Go-cart, snowmobile, or motorcycle racing \$ 2,500.00.

(b) A municipality where a race is to be held may charge an additional fee, not to exceed the municipality's costs associated with the race.

(c) A single event permit shall authorize any number of events within a 10-day period in the same location and on the same racing track. An annual-event permit shall authorize any number of events within two 10-day periods in consecutive years and may be renewed every two years.

(d) Notwithstanding the provisions of subdivision (a)(3)(B) of this section, a person in good standing incorporated or authorized to transact business as a nonprofit corporation under Title 11B shall pay a fee of \$100.00 for a single-event snowmobile racing permit.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Senate Bills Committed

Senate bills entitled:

S. 137. An act relating to workers' compensation and unemployment compensation.

S. 169. An act relating to workers' compensation liens.

S. 172. An act relating to creating a private activity bond advisory committee.

Were severally taken up.

Thereupon, pending second reading of the bills, on motion of Senator Illuzzi, the bills were severally committed to the Committee on Economic Development, Housing and General Affairs.

Bill Ordered to Lie

H. 794.

Senate bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill?, on motion of Senator Illuzzi, the bill was ordered to lie.

Proposals of Amendment; Third Reading Ordered**H. 747.**

Senator Ashe, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to cigarette manufacturers.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 7 V.S.A. § 1003, by striking out 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.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

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

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 778.

Appearing on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House bill entitled:

An act relating to structured settlements.

Was taken up for immediate consideration.

Senator Sears, for the Committee on Judiciary, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 63, subchapter 5 is added to read:

Subchapter 5. Transfers of Structured Settlements

§ 2480aa. DEFINITIONS

In this subchapter:

(1) “Annuity issuer” means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) “Dependents” include a payee’s spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony.

(3) “Discounted present value” means the present value of future payments determined by discounting such payments to the present using the most recently published Applicable Federal Rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.

(4) “Gross advance amount” means the sum payable to the payee or for the payee’s account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

(5) “Independent professional advice” means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser meeting all of the following requirements:

(A) The advisor is engaged by the payee to render advice concerning the legal, tax, or financial implications of a structured settlement or a transfer of structured settlement payment rights;

(B) The adviser’s compensation for rendering independent professional advice is not affected by occurrence or lack of occurrence of a settlement transfer; and

(C) A particular adviser is not referred to the payee by the transferee or its agent, except that the transferee may refer the payee to a lawyer referral service or agency operated by a state or local bar association.

(6) “Interested parties” means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee’s death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations relating to the structured settlement payment rights which are the subject of the proposed transfer.

(7) “Net advance amount” means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under subdivision 2480bb(5) of this title.

(8) “Payee” means an individual who is receiving tax-free payments under a structured settlement and proposes to make a transfer of payment rights thereunder.

(9) “Periodic payments” includes both recurring payments and scheduled future lump sum payments.

(10) “Qualified assignment agreement” means an agreement providing for a qualified assignment within the meaning of section 130 of the United States Internal Revenue Code, United States Code Title 26, as amended from time to time.

(11) “Settled claim” means the original tort claim resolved by a structured settlement.

(12) “Structured settlement” means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim but does not refer to periodic payments in settlement of a workers’ compensation claim.

(13) “Structured settlement agreement” means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(14) “Structured settlement obligor” means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(15) “Structured settlement payment rights” means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(A) the payee is domiciled in this state; or

(B) the structured settlement agreement was approved by a court in this state.

(16) “Terms of the structured settlement” include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and any order or other approval of any court or other government authority that authorized or approved such structured settlement.

(17) "Transfer" means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration.

(18) "Transfer agreement" means the agreement providing for a transfer of structured settlement payment rights.

(19) "Transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney's fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary.

(20) "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

§ 2480bb. REQUIRED DISCLOSURES TO PAYEE

Not less than ten days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement in bold type in a size no smaller than 14 points setting forth:

(1) the amounts and due dates of the structured settlement payments to be transferred;

(2) the aggregate amount of such payments;

(3) the discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities," and the amount of the Applicable Federal Rate used in calculating such discounted present value;

(4) the gross advance amount and the annual discount rate, compounded monthly, used to determine such figure;

(5) an itemized listing of all applicable transfer expenses, other than attorneys' fees and related disbursements payable by the payee in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements;

(6) the net advance amount;

(7) the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee as well as a description of any other financial penalties the payee might incur with the transferee as a result of such a breach; and

(8) a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, at any time before either the date on which the transferee files for court approval of the transfer, or ten business days after the payee receives independent professional advice, whichever comes later.

§ 2480cc. APPROVAL OF TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

(a) No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by such court that:

(1) the transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, considering all relevant factors, including:

(A) the payee's ability to understand the financial terms and consequences of the transfer;

(B) the payee's capacity to meet his or her financial obligations, including the potential need for future medical treatment;

(C) the need, purpose, or reason for the transfer; and

(D) whether the transfer is fair and reasonable, considering the discount rate used to calculate the gross advance amount, the fees and expenses imposed on the payee, and whether the payee obtained more than one quote for the same or a substantially similar transfer.

(2) the payee has been advised in writing by the transferee to seek independent professional advice regarding the financial advisability of the transfer and the other financial options available to the payee, if any, and has either received such advice or knowingly waived the opportunity to seek and receive such advice in writing; and

(3) the transfer does not contravene any applicable statute or the order of any court or other government authority.

(b) Any agreement to transfer future payments arising under a workers' compensation claim is prohibited.

(c) At the hearing on the transfer, if the payee has waived in writing the opportunity to seek and receive independent professional advice regarding the transfer, the court may, in its sole discretion, continue the hearing and require the payee to seek independent professional advice if the court determines that

obtaining such advice should be required based on the circumstances of the payee or the terms of the transaction. If the court determines that independent professional advice should be required, the court may order that the costs incurred by a payee for independent professional advice be paid by the transferee, the payee, or another party, provided that the amount to be paid by the transferee shall not exceed \$1,500.00.

§ 2480dd. EFFECTS OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

Following a transfer of structured settlement payment rights under this subchapter:

(1) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments;

(2) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(A) if the transfer contravenes the terms of the structured settlement for any taxes incurred by such parties as a consequence of the transfer; and

(B) for any other liabilities or costs, including reasonable costs and attorney's fees, arising from compliance by such parties with the order of the court or arising as a consequence of the transferee's failure to comply with this subchapter;

(3) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees; and

(4) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this subchapter.

§ 2480ee. PROCEDURE FOR APPROVAL OF TRANSFERS

(a) An application under this subchapter for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the superior court, civil division, of the county in which the payee resides or in which the structured settlement obligor or the annuity issuer maintains its principal place of business or in any court that approved the structured settlement agreement.

(b) Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 2480cc of this title, the transferee shall file with the court and serve on all

interested parties a notice of the proposed transfer and the application for its authorization, including with such notice:

- (1) a copy of any court order approving the settlement;
 - (2) a written description of the underlying basis for the settlement;
 - (3) a copy of the transferee's application;
 - (4) a copy of the transfer agreement;
 - (5) a copy of the disclosure statement required under section 2480bb of this title;
 - (6) a listing of each of the payee's dependents, together with each dependent's age;
 - (7) a statement setting forth whether, to the best of the transferee's knowledge after making a reasonable inquiry to the payee, the structured settlement obligor, and the annuity issuer, there have been any previous transfers or applications for transfer of any structured settlement payment rights of the payee and giving details of all such transfers or applications for transfer;
 - (8) if available to the transferee after making a good faith request of the payee, the structured settlement obligor and the annuity issuer, the following documents, which shall be filed under seal:
 - (A) a copy of the annuity contract;
 - (B) a copy of any qualified assignment agreement;
 - (C) a copy of the underlying structured settlement agreement;
 - (9) notification that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing; and
 - (10) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not less than 15 days after service of the transferee's notice, in order to be considered by the court.
- (c) The transferee shall file a copy of the application with the attorney general's office and a copy of the application and the payee's Social Security number with the office of child support, the department of taxes, and the department of financial regulation. The offices and departments receiving copies pursuant to this section shall permit the copies to be filed electronically.

(d) The payee shall attend the hearing unless attendance is excused for good cause.

§ 2480ff. GENERAL PROVISIONS; CONSTRUCTION

(a) The provisions of this subchapter may not be waived by any payee.

(b) Any transfer agreement entered into on or after the effective date of this subchapter by a payee who resides in this state shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(c) No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for:

(1) periodically confirming the payee's survival; and

(2) giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(d) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of this subchapter.

(e) Nothing contained in this subchapter shall be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this subchapter is valid or invalid.

(f) Compliance with the requirements set forth in section 2480bb of this title and fulfillment of the conditions set forth in section 2480cc of this title shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for or any liability arising from noncompliance with such requirements or failure to fulfill such conditions.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

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

House Proposal of Amendment Concurred In

S. 237.

House proposal of amendment to Senate bill entitled:

An act relating to the genuine progress indicator.

Was taken up.

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

Sec. 1. PURPOSE, DEFINITION, AND INTENT

(a) Purpose. The purpose of the genuine progress indicator (“GPI”) is to measure the state of Vermont’s economic, environmental, and societal well-being as a supplement to the measurement derived from the gross state product and other existing statistical measurements.

(b) Definition. The GPI is an estimate of the net contributions of economic activity to the well-being and long-term prosperity of our state’s citizens, calculated through adjustments to gross state product that account for positive and negative economic, environmental, and social attributes of economic development.

(c) Intent. It is the intent of the general assembly that once established and tested, the GPI will assist state government in decision-making by providing an additional basis for budgetary decisions, including outcomes-based budgeting; by measuring progress in the application of policy and programs; and by serving as a tool to identify public policy priorities, including other measures such as human rights.

Sec. 2. GENUINE PROGRESS INDICATOR

(a) Establishment; maintenance.

(1) The secretary of administration shall negotiate and enter into a memorandum of understanding with the Gund Institute for Ecological Economics of the University of Vermont (the “Gund Institute”) to work in collaboration to establish and test a genuine progress indicator (GPI). The memorandum shall provide the process by which the GPI is established and, once tested, how and by whom the GPI shall be maintained and updated. The memorandum shall further provide that in the establishment of the GPI, the secretary of administration, in collaboration with the Gund Institute, shall create a Vermont data committee made up of individuals with relevant

expertise to inventory existing datasets and to make recommendations that may be useful to all data users in Vermont's state government, nonprofit organizations, and businesses.

(2) The GPI shall use standard genuine progress indicator methodology and additional factors to enhance the indicator, which shall be adjusted periodically as relevant and necessary.

(b) Accessibility. Once established, the GPI and its underlying datasets that are submitted by the Gund Institute to the secretary of administration shall be posted on the state of Vermont website.

(c) Updating data. The secretary of administration shall cooperate in providing data as necessary in order to update and maintain the GPI.

Sec. 3. PROGRESS REPORTS

By January 15, 2013 and once every other year thereafter, the secretary of administration shall report to the house committees on government operations and on commerce and economic development and the senate committees on government operations and on economic development, housing, and general affairs a progress report regarding the maintenance, including the cost of maintenance, and usefulness of the GPI.

Sec. 4. DATASETS

Any datasets submitted to the secretary of administration pursuant to this act shall be considered a public record under chapter 5 of Title 1.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 200.

House proposal of amendment to Senate bill entitled:

An act relating to the reporting requirements of health insurers.

Was taken up.

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

Sec. 1. 18 V.S.A. § 9414a is added to read:

§ 9414a. ANNUAL REPORTING BY HEALTH INSURERS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

limitations imposed by the plan, or was subject to a preexisting condition exclusion;

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

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

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

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

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

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

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

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

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

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

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

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

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

department of financial regulation pursuant to subdivision (1) of this subsection.

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

Sec. 2. INTERIM WORKING GROUP ON INSURANCE FILINGS

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

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

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

(2) the state health care ombudsman;

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 79. PHARMACY AUDITS

§ 3801. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

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

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

(A) mail service pharmacy;

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

(C) clinical formulary development and management services;

(D) rebate contracting and administration;

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

(F) disease or chronic care management programs.

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

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

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

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

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

§ 3802. PHARMACY RIGHTS DURING AN AUDIT

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

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

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

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

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

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

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

(i) required by federal law; or

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

(B) exceed 200 selected prescription claims.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 3803. APPEALS

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

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

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

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

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

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

§ 3804. PHARMACY AUDIT RECOUPMENTS

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

(b) An entity conducting an audit may not:

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

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

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

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

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

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

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

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

§ 3805. APPLICABILITY

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

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

§ 2689. REIMBURSEMENT FOR AMBULANCE SERVICE PROVIDERS

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

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

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

Sec. 6. EFFECTIVE DATES

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

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

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

And that after passage the title of the bill be amended to read:

An act relating to pharmacy audits, reimbursement for ambulance services, and the reporting requirements of health insurers.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Cummings, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Committees of Conference Appointed

S. 189.

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

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Nitka
Senator Sears
Senator Mullin

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 244.

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

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Sears
Senator Nitka
Senator Flory

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 251.

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

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Hartwell
Senator Westman
Senator Mazza

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 245.

An act relating to requiring cardiovascular care instruction in public and independent schools.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Doyle
Senator Lyons
Senator Baruth

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 782.

An act relating to miscellaneous tax changes for 2012.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Cummings
Senator MacDonald
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**House Proposal of Amendment Not Concurred In; Committee of
Conference Requested**

S. 217.

House proposal of amendment to Senate bill entitled:

An act relating to closely held benefit corporations.

Was taken up.

The House proposes to the Senate to amend the bill as follows:

In Sec. 1, in 11A V.S.A. § 21.10(e)(1), immediately preceding “is not required” by adding “except in the case of a corporation with annual gross revenue of one million dollars or more in each of the two years preceding his or her appointment.”

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Cummings, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

**Rules Suspended; Third Reading Ordered; Rules Suspended Bill Passed
in Concurrence; Bill Messaged**

H. 773.

Appearing on entry on the Calendar for notice, on motion of Senator Doyle, the rules were suspended and House bill entitled:

An act relating to veterans' tax exemption.

Was taken up for immediate consideration.

Senator Doyle, for the Committee on Economic Development, Housing and General Affairs, to which the bill was referred, reported that the bill ought to pass in concurrence.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass in concurrence.

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

Thereupon, on motion of Senator Doyle, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

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

Thereupon, on motion of Senator Mazza, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; Bills Messaged

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 189, S. 244, S. 245, S. 251, H. 773, H. 782, H. 778.

Message from the House No. 65

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 considered Senate proposals of amendment to House bill of the following title:

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

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

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Sharpe of Bristol
Rep. Clarkson of Woodstock
Rep. Masland of Thetford

Message from the House No. 66

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 considered bills originating in the Senate of the following titles:

S. 113. An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools.

S. 138. An act relating to calculation of criminal sentences and record keeping for search warrants.

S. 152. An act relating to the definition of line of duty in the workers' compensation statutes.

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

S. 230. An act relating to property and casualty insurers and electronic notices.

S. 252. An act relating to the repeal or revision of reporting requirements.

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

The House has adopted joint resolution of the following title:

J.R.H. 37. Joint resolution expressing the General Assembly's expectation that the full range of concerns and issues raised by the general public regarding the merger of Central Vermont Public Service Corporation and Green Mountain Power Corporation will be given full consideration, and that the final agreement must be in the best interests of the ratepayers and people of the State of Vermont.

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

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 245. An act relating to requiring cardiovascular care instruction in public and independent schools.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Donovan of Burlington
Rep. Christie of Hartford
Rep. Campion of Bennington.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 251. An act relating to miscellaneous amendments to laws pertaining to motor vehicles.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Lanpher of Vergennes
Rep. Bissonnette of Winooski
Rep. Bohi of Hartford

Committee of Conference Appointed; Rules Suspended; Bill Messaged

H. 769.

An act relating to department of environmental conservation fees.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Ashe
Senator McCormack
Senator Brock

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Thereupon, on motion of Senator Mazza, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, April 30, 2012, at two o'clock in the afternoon pursuant to J.R.S. 59.