House Calendar

Tuesday, April 23, 2013

105th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 a.m.

TABLE OF CONTENTS

Senate Proposal of Amendment

ORDERS OF THE DAY

ACTION CALENDAR

Favorable with Amendment

H. 54

An act relating to Public Records Act exemptions

Rep. Hubert of Milton, for the Committee on **Government Operations,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. DRAFT PUBLIC RECORDS BILL; OFFICE OF LEGISLATIVE COUNCIL

(a) To advance the objectives of 2011 Acts and Resolves No. 59, Sec. 11, which created a Public Records Legislative Study Committee ("Committee") charged with reviewing the requirements of the Public Records Act and the numerous exemptions to that Act, staff of the Office of Legislative Council ("staff") shall prepare and submit to the Committee a draft bill on or before November 1, 2013 that:

(1) lists in one statutory provision in 1 V.S.A. chapter 5, subchapter 3 all exemptions to the public inspection and copying requirements of the Public Records Act that are set forth throughout the Vermont Statutes Annotated;

(2) amends existing exemptions to the Public Records Act set forth throughout the Vermont Statutes Annotated in order to cross-reference the list required under subdivision (1) of this subsection; and

(3) amends exemptions to the Public Records Act as recommended by the Committee in its 2012 and 2013 annual reports, as those recommendations were proposed to be updated in version 3.2 of the House Government Operation Committee's draft strike-all amendment to House Bill No. 54.

(b) In preparing the draft bill required under subsection (a) of this section, staff shall consolidate exemptions that relate to the same subject matter into a single exemption, if consolidation does not alter the substance of an exemption. Staff shall prepare for the Committee's review a list of exemptions for which consolidation may be appropriate, but for which consolidation would potentially alter the substance of an exemption.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee Vote: 10-0-1)

H. 226

An act relating to the regulation of underground storage tanks

Rep. Krebs of South Hero, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1922 is amended to read:

§ 1922. DEFINITIONS

~~For purposes of~~ As used in this chapter:

* * *

(20) "Petroleum Cleanup Fund" or "Fund" means the fund created by section 1941 of this title.

(21) "Motor Fuel Account" means the Motor Fuel Account of the Fund created by section 1941 of this title.

(22) "Heating Fuel Account" means the Heating Fuel Account of the Fund created by section 1941 of this title.

Sec. 2. 10 V.S.A. § 1927 is amended to read:

§ 1927. REGULATION OF CATEGORY ONE TANKS

* * *

(e) The following tank systems shall be closed in accordance with rules adopted by the Secretary:

(1) not later than January 1, 2016, single-wall tank systems; and

(2) not later than January 1, 2018, combination tank systems, except that combination tank systems in which the tank has been lined shall be closed by January 1, 2018 or by ten years from the date by which the tank was lined, whichever is later.

(f) A tank owner may petition the Secretary to allow a lined combination tank system to remain in service an additional five years beyond the date established in subdivision (e)(2) of this section. The Secretary may grant the petition upon a determination that:

(1) no release has occurred from the tank system;

(2) the tank system has passed an inspection for lined tank systems adopted by the Secretary by rule; and

(3) no repairs are suggested or needed to the tank liner.

(g) On and after the effective date of this subsection, a person shall not line

a single-wall or combination tank system, unless the single-wall or combination system meets standards for new lined systems adopted by procedure by the Secretary. At a minimum, these standards shall address the tank system's piping, secondary containment for all portions of the system except the tank, leak detection, liquid tight containment sumps on the tank top, and liquid tight dispenser sumps.

(h) Notwithstanding the provisions of subsection (g) of this section, a person shall not line a single-wall or combination tank system after January 1, 2014.

Sec. 3. 10 V.S.A. § 1941 is amended to read:

§ 1941. PETROLEUM CLEANUP FUND

* * *

(b) The ~~secretary~~ Secretary may authorize disbursements from the ~~fund~~ Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This ~~fund~~ Fund shall be used for no other governmental purposes, nor shall any portion of the ~~fund~~ Fund ever be available to borrow from by any branch of government; it being the intent of the ~~legislature~~ General Assembly that this ~~fund~~ Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, ~~2014~~ 2019 and judged to be in conformance with prevailing industry rates. This includes:

(1) costs incurred by taking corrective action as directed by the ~~secretary~~ Secretary for any release of petroleum into the environment from:

(A) an underground storage tank defined as a category one tank~~,~~ provided disbursements on any site shall not exceed $1,240,000.00 and shall be made from the Motor Fuel Account, as follows:

(i) after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of ~~tanks~~ double-wall tank systems used for commercial purposes ~~or after the first $250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for farms or residential purposes. Disbursements on any site shall not exceed $1,240,000.00. These disbursements shall be made from the motor fuel account~~;

(ii) after the first $15,000.00 of cleanup costs have been borne by

the owners or operators of combination tank systems, whether lined or unlined, used for commercial purposes, unless the system is a lined combination tank system that has been granted a five-year extension under subsection 1927(f) of this title;

(iii) after the first $25,000.00 of cleanup costs have been borne by the owners or operators of lined combination tank systems that have been granted a five-year extension to operate under subsection 1927(f) of this title;

(iv) after the first $25,000.00 of cleanup costs have been borne by the owners or operators of single-wall tank systems used for commercial purposes;

(B) an underground motor fuel tank after the first $250.00 of the cleanup costs have been borne by the owners or operators of tanks with a capacity equal to or less than 1,100 gallons and used for farming or residential purposes. Disbursements on any site shall not exceed $990,000.00 and shall be made from the Motor Fuel Account;

(C) an underground heating fuel tank used for on-premise heating after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities over 1,100 gallons used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. ~~These disbursements~~ Disbursements on any site shall not exceed $990,000.00 and shall be made from the ~~heating fuel account~~ Heating Fuel Account;

~~(C)~~(D) an aboveground storage tank site after the first $1,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements under this subdivision (b)(1)~~(C)~~(D) on any individual site shall not exceed $25,000.00. These disbursements shall be made from the ~~motor fuel account or heating fuel account~~ Motor Fuel Account or Heating Fuel Account, depending upon the use or contents of the tank;

~~(D)~~(E) a bulk storage aboveground motor fuel or heating fuel storage tank site after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes. Disbursements under this subdivision (b)(1)~~(D)~~(E) on any individual site shall not exceed $990,000.00. These disbursements shall be made from the ~~motor fuel account~~ Motor Fuel Account;

~~(E)~~(F) ~~where~~ if a site is contaminated by petroleum releases from

both heating fuel and motor fuel tanks, or where the source of the petroleum contamination has not been ascertained, the ~~secretary~~ Secretary shall have the discretion to disburse funds from either the ~~heating oil or motor fuel account~~ Heating Fuel or Motor Fuel Account, or both;

* * *

(g) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank may apply to the ~~secretary~~ Secretary for such assistance. The financial assistance may be in the form of grants of up to $2,000.00 or the costs of closure, replacement, or upgrade, whichever is less. Grants shall be made only to the current property owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The ~~secretary~~ Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the ~~secretary's~~ Secretary's recommended standards. The ~~secretary~~ Secretary shall also give priority to lower income applicants. To be eligible to receive the grant, the owner must provide the previous year's financial information, and, if the replacement tank is an aboveground tank, must assure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is specified by rule of the ~~secretary~~ Secretary. The ~~secretary~~ Secretary shall only authorize up to ~~$300,000.00~~ $350,000.00 in assistance for underground and aboveground heating fuel tanks in any one fiscal year from the ~~heating fuel account~~ Heating Fuel Account for this purpose. The application must be accompanied by the following information:

* * *

Sec. 4. 10 V.S.A. § 1942 is amended to read:

§ 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

(a) There is hereby established a licensing fee of one cent per gallon of

motor fuel sold by a distributor or dealer or used by a user in this ~~state~~ State, which will be assessed against every distributor, dealer, or user as defined in 23 V.S.A. chapters 27 and 28, and which will be deposited into the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The ~~secretary~~ Secretary, in consultation with the ~~petroleum cleanup fund advisory committee~~ Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the ~~legislature~~ General Assembly on the balance of the ~~motor fuel account of the fund~~ Motor Fuel Account and shall make recommendations, if any, for changes to the program. The ~~secretary~~ Secretary shall also determine the unencumbered balance of the ~~motor fuel account of the fund~~ Motor Fuel Account as of May 15 of each year, and if the balance is equal to or greater than $7,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The ~~secretary~~ Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee will be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee will be collected by the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles and deposited into the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund. This fee requirement shall terminate on April 1, ~~2016~~ 2021.

(b) There is assessed against every seller receiving more than $10,000.00 annually for the bulk retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this ~~state~~ State a licensing fee of one cent per gallon of such heating oil, kerosene, or other dyed diesel fuel. This fee shall be subject to the collection, administration, and enforcement provisions of 32 V.S.A. chapter 233, and the fees collected under this subsection by the ~~commissioner of taxes~~ Commissioner of Taxes shall be deposited into the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The ~~secretary~~ Secretary, in consultation with the ~~petroleum cleanup fund advisory committee~~ Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the ~~legislature~~ General Assembly on the balance of the ~~heating fuel account of the fund~~ Heating Fuel Account and shall make recommendations, if any, for changes to the program. The ~~secretary~~ Secretary shall also determine the unencumbered balance of the ~~heating fuel account of the fund~~ Heating Fuel Account as of May 15 of each year, and if the balance is equal to or greater than $3,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The ~~secretary~~ Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee provision shall terminate April 1, ~~2016~~ 2021.

Sec. 5. 10 V.S.A § 1943 is amended to read:

§ 1943. PETROLEUM TANK ASSESSMENT

(a) Each owner of a category one tank used for storage of petroleum products shall annually remit to the ~~secretary on October 1 of each year~~ Secretary $100.00 per double-wall tank system; ~~$150.00~~ $250.00 per combination tank system if the single-wall tank has been lined; $500.00 for all other combination tank systems; and ~~$200.00~~ $1,000.00 per single-wall tank system, which shall be deposited to the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund established by section 1941 of this title, except that:

(1) ~~For retail gasoline outlets that sell less than 40,000 gallons of motor fuel per month, the fee shall be:~~

~~(A) $75.00 per double-wall tank system;~~

~~(B) $125.00 per combination tank system; and~~

~~(C) $175.00 per single-wall tank system.~~

~~(2)~~ The fee shall be reduced by 50 percent if the owner or permittee provides to the satisfaction of the ~~secretary~~ Secretary evidence of financial responsibility to allow the taking of corrective action in the amount of $100,000.00 per occurrence and the compensation of third parties for bodily injury and property damage in the amount of $300,000.00 per occurrence.

~~(3)~~(2) The fee shall be relieved if the owner provides to the satisfaction of the ~~secretary~~ Secretary, evidence of financial responsibility to allow the taking of corrective action and the compensation of third parties for bodily injury and property damage each in the amount of $1,000,000.00 per occurrence.

~~(4) The fee for retail motor fuel outlets selling 20,000 gallons or less per month shall not exceed $100.00 per year for all double-wall tanks at a single location and shall not exceed $300.00 for all combination tank systems at a single location. This cap shall not apply to a retail motor fuel outlet utilizing a single-wall tank system.~~

~~(5) For any municipality that uses an annual average of less than 40,000 gallons of motor fuel per month, provided that all of the tanks of that municipality meet the requirements of this chapter, the fee shall be:~~

~~(A) $50.00 per double-wall tank system;~~

~~(B) $100.00 per combination tank system; and~~

~~(C) $150.00 per single-wall tank system.~~

* * *

(c) This tank assessment shall terminate on July 1, ~~2014~~ 2019.

* * *

Sec. 6. 10 V.S.A. § 1944(a) is amended to read:

(a) The ~~secretary~~ Secretary may make individual loans of up to ~~$75,000.00~~ $150,000.00 for:

(1) the replacement or removal of category one tanks used for the storage of petroleum products. These loans shall be made from the ~~motor fuel account of the fund established under subsection 1941(a) of this title~~ Motor Fuel Account;

(2) the removal, or the replacement or improvement, or both, of piping, tank-top sumps, and other components of the secondary containment and release detection systems of category one tanks, for the purpose of reducing the likelihood of a release of regulated substance to the environment. These loans shall be made from the ~~motor fuel account of the fund established under subsection 1941(a) of this title~~ Motor Fuel Account;

(3) the removal, replacement, or upgrade of an underground or aboveground storage tank used for the storage of petroleum products for the purpose of reducing the likelihood of a release of petroleum into the environment. These loans shall be made from the ~~motor fuel account or heating fuel account of the fund established under subsection 1941(a) of this title,~~ Motor Fuel Account or Heating Fuel Account depending upon the use or contents of the tank.

Sec. 7. 10 V.S.A. § 1941a is added to read:

§ 1941a. SINGLE-WALL AND COMBINATION TANKS; TANK REMOVAL

(a) Notwithstanding the requirements of 10 V.S.A. § 1941(b)(1)(A)(iv), when a release is discovered during the closure and removal of a single-wall underground storage tank, the Fund may pay cleanup costs after the first $10,000.00, and disbursements on any site shall not exceed $1,240,000.00.

(b) Notwithstanding the requirements of 10 V.S.A. § 1941(b)(1)(A)(ii), when a release is discovered during the closure and removal of a combination tank system, whether lined or unlined, the Fund may pay cleanup costs after the first $10,000.00, and disbursements on any site shall not exceed $1,240,000.00.

Sec. 8. PETROLEUM CLEANUP FUND ADVISORY COMMITTEE REPORT FOR 2014

The annual report of the Petroleum Cleanup Fund Advisory Committee to be submitted to the General Assembly on January 15, 2014 pursuant to 10 V.S.A. § 1941 shall provide recommendations as to whether:

(1) 10 V.S.A. § 1941(b) should enable the Secretary to make disbursements from the Fund for the purpose of removing or remediating underground or aboveground storage tanks that present an actual or imminent threat of release;

(2) there should be an increase in the total annual amount that the Secretary is authorized to disburse pursuant to 10 V.S.A. § 1941(g) (grants to close, replace, or upgrade farm or residential underground or aboveground heating fuel storage tanks); and

(3) there should be an increase in the individual grant amount that the Secretary is authorized to disburse pursuant to 10 V.S.A. § 1941(g) (grants to close, replace, or upgrade farm or residential underground or aboveground heating fuel storage tanks).

Sec. 9. REPEAL

The following are repealed:

(1) 10 V.S.A. § 1941a(a) on January 1, 2016;

(2) 10 V.S.A. § 1941a(b) on January 1, 2018.

Sec. 10. EFFECTIVE DATES

This act shall take effect on passage, except Sec. 5 (petroleum tank assessment) of this act shall take effect on July 1, 2014.

(Committee Vote: 9-0-0)

Rep. Masland of Thetford, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources** and when further amended as follows:

First: In Sec. 4, 10 V.S.A. § 1942, in subsection (b), by striking the first sentence and inserting in lieu thereof the following: "There is assessed ~~against every seller receiving more than $10,000.00 annually for the bulk retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this state~~ a licensing fee of one cent per gallon for the bulk retail sale of ~~such~~ heating oil, kerosene, or other dyed diesel fuel sold in this State."

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

Sec. 5. 10 V.S.A. § 1943 is amended to read:

§ 1943. PETROLEUM TANK ASSESSMENT

(a) Each owner of a category one tank used for storage of petroleum

products shall annually remit to the ~~secretary on October 1 of each year~~ Secretary $100.00 per double-wall tank system; ~~$150.00~~ $250.00 per combination tank system if the single-wall tank has been lined; $500.00 for all other combination tank systems; and ~~$200.00~~ $1,000.00 per single-wall tank system, which shall be deposited to the ~~petroleum cleanup fund~~ Petroleum Cleanup Fund established by section 1941 of this title, except that:

(1) For retail gasoline outlets that sell less than 40,000 gallons of motor fuel per month, the fee shall be:

(A) $75.00 per double-wall tank system;

(B) $125.00 per combination tank system; and

(C) $175.00 per single-wall tank system.

(2) The fee shall be reduced by 50 percent if the owner or permittee provides to the satisfaction of the ~~secretary~~ Secretary evidence of financial responsibility to allow the taking of corrective action in the amount of $100,000.00 per occurrence and the compensation of third parties for bodily injury and property damage in the amount of $300,000.00 per occurrence.

(3) The fee shall be relieved if the owner provides to the satisfaction of the ~~secretary~~ Secretary, evidence of financial responsibility to allow the taking of corrective action and the compensation of third parties for bodily injury and property damage each in the amount of $1,000,000.00 per occurrence.

(4) The fee for retail motor fuel outlets selling 20,000 gallons or less per month shall not exceed $100.00 per year for all double-wall tanks at a single location and shall not exceed $300.00 for all combination tank systems at a single location. This cap shall not apply to a retail motor fuel outlet utilizing a single-wall tank system.

(5) For any municipality that uses an annual average of less than 40,000 gallons of motor fuel per month, provided that all of the tanks of that municipality meet the requirements of this chapter, the fee shall be:

(A) $50.00 per double-wall tank system;

(B) $100.00 per combination tank system; and

(C) $150.00 per single-wall tank system.

* * *

(c) This tank assessment shall terminate on July 1, ~~2014~~ 2019.

* * *

(Committee Vote: 10-0-1)

Rep. Keenan of St. Albans City, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources and Ways and Means.**

(Committee Vote: 11-0-0)

H. 403

An act relating to community supports for persons with serious functional impairments

Rep. Haas of Rochester, for the Committee on **Human Services,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STUDY AND REPORT ON PROVIDING COMMUNITY SUPPORTS TO PERSONS WITH SERIOUS FUNCTIONAL IMPAIRMENTS

(a) As used in this act, "designated population" shall mean those Vermont residents, regardless of whether they are in the custody of the Commissioner of Corrections, with mental and functional impairments or developmental disorders so severe that they cannot live in the community without substantial supports and who have committed, been charged with, or have been identified as being at risk of committing a criminal offense that renders them a threat to public safety or who pose a risk to their own physical safety, or both.

(b) A legislative study committee is established to identify and examine the needs of the designated population in community-based settings. The Study Committee shall consist of a member from the House Committees on Appropriations, on Corrections and Institutions, on Human Services, and on Judiciary, not all from the same party, appointed by the Speaker of the House, and a member from the Senate Committees on Appropriations, on Health and Welfare, on Judiciary, and one Senator selected at large, not all from the same party, appointed by the Committee on Committees. The Study Committee shall discuss and make recommendations on legislative and nonlegislative solutions for improving the quality and cost-effectiveness of treatment to the designated population while maintaining public safety, in collaboration with the following organizations and individuals or their designee:

(1) the Secretary of Human Services;

(2) the Commissioner of Health;

(3) the Commissioner of Disabilities, Aging, and Independent Living;

(4) the Commissioner of Mental Health;

(5) the Commissioner of Corrections;

(6) the Commissioner of Vermont Health Access;

(7) the Commissioner for Children and Families;

(8) the Office of the Attorney General;

(9) the Mental Health Care Ombudsman;

(10) the Court Administrator;

(11) the Vermont Council of Developmental and Mental Health Services;

(12) Vermont Legal Aid's Mental Health Law Project;

(13) the Executive Director of the Vermont Developmental Disabilities Council;

(14) the Executive Director of the Vermont Human Rights Commission;

(15) Disability Rights Vermont;

(16) Vermont Psychiatric Survivors;

(17) Office of the Defender General's Prisoners' Rights Office; and

(18) other interested stakeholders.

(c)(1) The first meeting of the Study Committee shall be held on or before August 1, 2013. At its first meeting, the Study Committee shall elect two legislative members to serve as co-chairs. The Study Committee shall not meet more than four times.

(2)(A) The Office of Legislative Council shall provide administrative, staff, and legislative drafting support to the Study Committee. The Joint Fiscal Office shall provide staff support to the Study Committee.

(B) Prior to the first meeting of the Study Committee, the Office of Legislative Council shall collect from the Agency of Human Services existing data and background materials relevant to the responsibilities of the Study Committee.

(d) The Study Committee shall consider:

(1) the continuum of appropriate treatment and services and supports for members of the designated population living in the community;

(2) practices for lowering the incarceration rate among the designated population;

(3) how best to protect the legal rights of members of the designated population living in community settings;

(4) approaches for managing public safety risks of the designated population;

(5) cost-saving opportunities for treating members of the designated population outside a correctional facility;

(6) treatment approaches used in other states that cost-effectively manage the public safety risks posed by residents comparable to the designated population; and

(7) any other issues as the Study Committee deems necessary and appropriate.

(e) On or before December 15, 2013, the Study Committee shall provide a written report containing any proposed legislation and its findings and recommendations, including the need for future action, to the House Committees on Appropriations, on Corrections and Institutions, on Human Services, and on Judiciary and to the Senate Committees on Appropriations, on Health and Welfare, and on Judiciary. In addition to the Study Committee's findings and recommendations, the report shall:

(1) develop proposed guidelines specifying how an individual shall be assessed to determine if he or she is a member of the designated population and what benchmarks shall be achieved by the individual prior to declassification from the designated population; and

(2) address the extent to which one or more secure residential recovery facilities are within the appropriate continuum of treatment alternatives for the designated population.

(f) For physical participation at meetings, legislative members of the Study Committee shall be entitled to receive per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Rep. Manwaring of Wilmington, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Human Services** and when further amended as follows:

First: In Sec. 1, subsection (b), by adding a sentence after the first sentence to read: "The Study Committee shall also be charged with determining how to most effectively allocate funds for the designated population within the constraints of past appropriations made for the purpose of serving this population."

Second: In Sec. 1, subdivision (c)(2)(B), by adding before the period ", including past appropriations used to serve the designated population"

Third: In Sec. 1, subsection (e), subdivision (1), by striking "and" after the semicolon

and in subdivision (2), by striking the period and inserting in lieu thereof "; and"

and by inserting a subdivision (3) to read as follows:

(3) evaluate the cost of potential treatment opportunities found by the Study Committee to appropriately balance care, legal rights, and public safety.

(Committee Vote: 11-0-0)

H. 517

An act relating to approval of the adoption and the codification of the charter of the Town of St. Albans

Rep. Consejo of Sheldon, for the Committee on **Government Operations,** recommends the bill be amended as follows:

In Sec. 2, 24 App. V.S.A. chapter 150, in § 3 (local option tax), by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) If the Selectboard of the Town of St. Albans by a majority vote recommends, the voters of the Town may, at an annual or special meeting warned for the purpose, by a majority vote of those present and voting, assess any or all of the following:

(1) a one-percent sales tax;

(2) a one-percent meals and alcoholic beverages tax;

(3) a one-percent rooms tax.

(Committee Vote: 11-0-0)

Rep. Wilson of Manchester, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations** and when further amended as follows:

In Sec. 2, in 24 App. V.S.A. chapter 150, § 3 (local option tax), by striking out subsections (b)–(d) and inserting in lieu thereof the following:

(b) Any local option tax assessed under subsection (a) of this section shall be collected and administered and may be rescinded as provided by the general laws of this State.

(Committee Vote: 8-3-0)

S. 47

An act relating to protection orders and second degree domestic assault

Rep. Fay of St. Johnsbury, for the Committee on **Judiciary,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 15 V.S.A. § 1105 is amended to read:

§ 1105. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the rules of civil procedure and may be served by any law enforcement officer.

(b) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ~~insure~~ ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant. ~~A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued, and who receives notice from the court on the record that the order has been issued, shall be deemed to have been served.~~

~~(b)~~(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 2. 15 V.S.A. § 1105 is amended to read:

§ 1105. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the rules of civil procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant.

(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 3. 12 V.S.A. § 5135 is amended to read:

§ 5135. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer.

(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) Orders against stalking or sexual assault shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to 15 V.S.A. chapter 21. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.

~~(b)~~(d) If service of a notice of hearing issued under section 5133 or 5134

of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 4. 12 V.S.A. § 5135 is amended to read:

§ 5135. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Orders against stalking or sexual assault shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to 15 V.S.A. chapter 21. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.

(d) If service of a notice of hearing issued under section 5133 or 5134 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

Sec. 5. 33 V.S.A. § 6937 is amended to read:

§ 6937. SERVICE

(a) A petition or ex parte temporary order or final order issued under this subchapter shall be served by any sheriff or constable or any municipal or state police officer in accordance with the Vermont Rules of Civil Procedure.

(b) A defendant who attends a hearing held under section 6935 of this title

at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order.

(c) The person making service shall file a return of service with the court stating the date, time and place at which the order was delivered personally to the defendant.

Sec. 6. 33 V.S.A. § 6937 is amended to read:

§ 6937. SERVICE

(a) A petition or ex parte temporary order or final order issued under this subchapter shall be served by any sheriff or constable or any municipal or state police officer in accordance with the Vermont Rules of Civil Procedure. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 6935 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) The person making service shall file a return of service with the court stating the date, time and place at which the order was delivered personally to the defendant.

Sec. 7. 12 V.S.A. § 5136 is amended to read:

§ 5136. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

(b) The ~~court administrator~~ Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to superior court. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The ~~office~~ Office of the ~~court administrator~~ Court Administrator shall

ensure that the superior court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an order against stalking or sexual assault proceeding is related to a criminal proceeding.

(d) Unless otherwise ordered by the court, an order issued pursuant to sections 5133 and 5134 of this title shall not be stayed pending an appeal.

Sec. 8. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him or herself or his or her children by filing a complaint under this chapter. The plaintiff shall submit an affidavit in support of the order.

* * *

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

* * *

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff, his or her children, or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone, or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this

title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(G) an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household~~.~~;

(H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

* * *

Sec. 9. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the rules of civil procedure, temporary orders under this chapter may be issued ex parte, without notice to defendant, upon motion and findings by the court that defendant has abused plaintiff, his or her children, or both. The plaintiff shall submit an affidavit in support of the order. Relief under this section shall be limited as follows:

(1) ~~upon~~ Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff, his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household; ~~and~~

(B) to refrain from interfering with the plaintiff's personal liberty, the personal liberty of plaintiff's children, or both; and

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment.

(2) ~~upon~~ Upon a finding that the plaintiff, his or her children, or both have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff~~;~~.

(3) ~~upon~~ Upon a finding that there is immediate danger of physical or

emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

* * *

Sec. 10. 15 V.S.A. § 1152 is amended to read:

§ 1152. ADDRESS CONFIDENTIALITY PROGRAM; APPLICATION; CERTIFICATION

* * *

(f) The Civil or Family Division of Washington County Superior Court shall have jurisdiction over petitions for protective orders filed by program participants pursuant to 12 V.S.A. §§ 5133 and 5134, to sections 1103 and 1104 of this title, and to 33 V.S.A. § 6935. A program participant may file a petition for a protective order in the county in which he or she resides or in Washington County to protect the confidentiality of his or her address.

Sec. 11. 13 V.S.A. § 1044 is amended to read:

§ 1044. SECOND DEGREE AGGRAVATED DOMESTIC ASSAULT

(a) A person commits the crime of second degree aggravated domestic assault if the person:

(1) commits the crime of domestic assault and such conduct violates:

(A) specific conditions of a criminal court order in effect at the time of the offense imposed to protect that other person;

(B) a final abuse prevention order issued under ~~section~~ 15 V.S.A. § 1103 ~~of Title 15~~ or a similar order issued in another jurisdiction.

(C) ~~an~~ a final order against stalking or sexual assault issued under ~~chapter 178 of Title~~ 12 V.S.A. § 5133 or a similar order issued in another jurisdiction; or

(D) ~~an~~ a final order against abuse of a vulnerable adult issued under ~~chapter 69 of Title~~ 33 V.S.A. § 6935 or a similar order issued in another jurisdiction.

(2) commits the crime of domestic assault; and

(A) has a prior conviction within the last 10 years for violating an abuse prevention order issued under section 1030 of this title; or

(B) has a prior conviction for domestic assault under section 1042 of this title.

(3) For the purpose of this subsection, the term "issued in another jurisdiction" means issued by a court in any other state, in a federally recognized Indian tribe, territory, or possession of the United States, in the

Commonwealth of Puerto Rico, or in the District of Columbia.

* * *

Sec. 12. EFFECTIVE DATE

(a) Secs. 2, 4, and 6 of this act shall take effect on November 1, 2013.

(b) This section and all remaining sections of this act shall take effect on July 1, 2013.

(Committee vote: 10-0-1)

(For text see Senate Journal 3/20/2013 and 3/21/2013)

S. 161

An act relating to mitigation of traffic fines and approval of a DLS Diversion Program contract

Rep. Wizowaty of Burlington, for the Committee on **Judiciary,** recommends that the House propose to the Senate that the bill be amended as follows:

By adding Sec. 1a to read as follows:

Sec. 1a. 2012 Acts and Resolves No. 147, Sec. 2(d) is amended to read:

(d) A person with ~~fewer than five~~ violations of 23 V.S.A. § 676 may apply to the DLS ~~diversion program~~ Diversion Program. Upon receipt of an application and determination of eligibility, the ~~diversion program~~ Diversion Program shall send the person a notice to report to the ~~diversion program~~ Diversion Program. The notice to report shall provide that the person is required to meet with diversion staff for the purposes of assessment and to complete all conditions of the diversion contract as provided in subsection (c) of this section.

(Committee vote: 9-0-2)

(No Senate Amendments)

NOTICE CALENDAR
Favorable with Amendment

H. 270

An act relating to providing access to publicly funded prekindergarten education

Rep. Buxton of Tunbridge, for the Committee on **Education,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION~~; RULES~~

(a) Definitions. As used in this section:

(1) "Prekindergarten child" means a child who, as of the date established by the district of residence for kindergarten eligibility, is three or four years of age or is five years of age but is not yet enrolled in kindergarten.

(2) "Prekindergarten education" means services designed to provide to prekindergarten children developmentally appropriate early development and learning experiences based on Vermont's early learning standards.

(3) "Prequalified private provider" means a private provider of prekindergarten education that is qualified pursuant to subsection (c) of this section.

(b) Access to publicly funded prekindergarten education.

(1) No fewer than ten hours per week of publicly funded prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, prequalified program operated by a public school or a private provider.

(2) If a parent or guardian chooses to enroll a prekindergarten child in an available, prequalified program, then, pursuant to the parent or guardian's choice, the school district of residence shall:

(A) pay tuition pursuant to subsection (d) of this section upon the request of the parent or guardian to:

(i) a prequalified private provider; or

(ii) a public school located outside the district that operates a prekindergarten program that has been prequalified pursuant to subsection (c) of this section; or

(B) enroll the child in the prekindergarten education program that it operates.

(3) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified program operated by a private provider or a public school in another district even if the district of residence operates a prekindergarten education program.

(4) If the supply of prequalified private and public providers is insufficient to meet the demand for publicly funded prekindergarten education in any region of the State, nothing in this section shall be construed to require a

district to begin or expand a program to satisfy that demand; but rather, in collaboration with the Agencies of Education and of Human Services, the local Building Bright Futures Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity.

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:

(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received:

(A) National Association for the Education of Young Children (NAEYC) accreditation; or

(B) at least four stars in the Department for Children and Families STARS system with at least two points in each of the five arenas; or

(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars in no more than two years with at least two points in each of the five arenas, and the provider has met intermediate milestones.

(2) A licensed provider shall employ or contract for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.

(3) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.

(d) Tuition, budgets, and average daily membership.

(1) On behalf of a resident prekindergarten child, a district shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a prequalified private provider or to a public school outside the district that is prequalified pursuant to subsection (c) of this section; provided, however, that the district shall pay tuition for weeks that are within the

district's academic year. Tuition paid under this section shall be at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the Agencies of Education and of Human Services. A district shall pay tuition upon:

(A) receiving notice from the child's parent or guardian that the child is or will be admitted to the prekindergarten education program operated by the prequalified private provider or the other district; and

(B) concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining average daily membership.

(2) In addition to any direct costs of operating a prekindergarten education program, a district of residence shall include anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning, or other prekindergarten-related costs in its annual budget presented to the voters.

(3) The district of residence may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education or on whose behalf it has paid tuition pursuant to this section.

(4) A prequalified private provider may receive additional payment directly from the parent or guardian only for prekindergarten education in excess of the hours paid for by the district pursuant to this section or for child care services, or both. The provider is not bound by the statewide rate established in this subsection when determining the rates it will charge the parent or guardian.

(e) Rules. The ~~commissioner of education and the commissioner for children and families~~ Secretary of Education and the Commissioner for Children and Families shall jointly develop and agree to rules and present them to the ~~state board of education~~ State Board for adoption under 3 V.S.A. chapter 25 as follows:

(1) ~~To ensure that, before a school district begins or expands a prekindergarten education program that intends to enroll students who are included in its average daily membership, the district engage the community in a collaborative process that includes an assessment of the need for the program in the community and an inventory of the existing service providers; provided, however, if a district needs to expand a prekindergarten education program in order to satisfy federal law relating to the ratio of special needs children to children without special needs and if the law cannot be satisfied by any one or more qualified service providers with which the district may already contract,~~

~~then the district may expand an existing school-based program without engaging in a community needs assessment.~~ To permit private providers that are not prequalified pursuant to subsection (c) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subsection (c), and through which the district may or may not make in-kind payments as a component of the statewide tuition established under this section.

(2) ~~To ensure that, if a school district begins or expands a prekindergarten education program that intends to include any of the students in its average daily membership, the district shall use existing qualified service providers to the extent that existing qualified service providers have the capacity to meet the district's needs effectively and efficiently.~~ To authorize a district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the Secretaries of Education and of Human Services, which shall be based upon analysis of the number of prekindergarten children residing in the district and the availability of enrollment opportunities with prequalified private providers in the region. Where the data are not clear or there are other complex considerations, the Secretaries may choose to conduct a community needs assessment.

(3) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.

(4) To establish a process by which:

(A) a parent or guardian ~~residing in the district or a provider, or both, may request a school district to enter into a contract with a provider located in or outside the district~~ notifies the district that the prekindergarten child is or will be admitted to a prekindergarten education program not operated by the district and concurrently enrolls the child in the district pursuant to subdivision (d)(1) of this section;

(B) a district:

(i) pays tuition pursuant to a schedule that does not inhibit the ability of a parent or guardian to enroll a prekindergarten child in a prekindergarten education program or the ability of a prequalified private provider to maintain financial stability; and

(ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; and

(C) a provider that has received tuition payments under this section

on behalf of a prekindergarten child notifies a district that the child is no longer enrolled.

(5) ~~To identify the services and other items for which state funds may be expended when prekindergarten children are counted for purposes of average daily membership, such as tuition reduction, quality improvements, or professional development for school staff or private providers.~~ To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all established quality standards and to allow for regional adjustments to the rate.

(6) ~~To ensure transparency and accountability by requiring private providers under contract with a school districts to report costs for prekindergarten programs to the school district and by requiring school districts to report these costs to the commissioner of education.~~ [Repealed.]

(7) To require ~~school districts~~ a district to include identifiable costs for prekindergarten programs and essential early education services in ~~their~~ its annual budgets and reports to the community.

(8) To require ~~school districts~~ a district to report to the ~~departments their~~ Agency of Education annual expenditures made in support of prekindergarten ~~care and~~ education, with distinct figures provided for expenditures made from the ~~general fund~~ General Fund, from the ~~education fund~~ Education Fund, and from all other sources, which shall be specified.

(9) To provide an ~~appeal~~ administrative process for:

(A) a parent, guardian, or provider to challenge an action of ~~the~~ a school district or the State when the ~~appellant~~ complainant believes that the district or State is in violation of state statute or rules regarding prekindergarten education; and

(B) a school district to challenge an action of a provider or the State when the district believes that the provider or the State is in violation of state statute or rules regarding prekindergarten education.

(10) ~~To establish the minimum quality standards necessary for a district to include prekindergarten children within its average daily membership. At a minimum, the standards shall include the following requirements:~~

~~(A) The prekindergarten education program, whether offered by or through the district, shall have received:~~

~~(i) National Association for the Education of Young Children (NAEYC) accreditation; or~~

~~(ii) At least four stars in the department for children and families STARS system with at least two points in each of the five arenas; or~~

~~(iii) Three stars in the STARS system if the provider has developed a plan, approved by the commissioner for children and families and the commissioner of education, to achieve four or more stars within three years with at least two points in each of the five arenas, and the provider has met intermediate milestones; and~~

~~(B) A licensed center shall employ or contract for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title; and~~

~~(C) A registered home shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.~~ To establish a system by which the Agency of Education and Department for Children and Families shall jointly monitor prekindergarten education programs to promote optimal outcomes for children and to collect data that will inform future decisions. At a minimum, the system shall monitor and assess:

(A) programmatic details, including the number of children served, the number of private and public programs operated, and the public financial investment made to ensure access to quality prekindergarten education;

(B) the quality of public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and

(C) the outcomes for children, including school readiness and proficiency in numeracy and literacy.

(11) To establish a process for documenting the progress of children enrolled in prekindergarten education programs and to require public and private providers to use the process to:

(A) help individualize instruction and improve program practice; and

(B) collect and report child progress data to the ~~commissioner of education~~ Secretary of Education on an annual basis.

(12) If the Secretaries find it advisable, to establish guidelines designed to help coordinate prekindergarten education programs under this section with essential early education as defined in section 2942 of this title and with Head Start programs.

(f) Other provisions of law. Section 836 of this title shall not apply to this

section.

(g) Limitations. Nothing in this section shall be construed to permit or require payment of public funds to a private provider of prekindergarten education in violation of Chapter I, Article 3 of the Vermont Constitution.

Sec. 2. 16 V.S.A. § 4010(c) is amended to read:

(c) The ~~commissioner~~ Secretary shall determine the weighted long-term membership for each school district using the long-term membership from subsection (b) of this section and the following weights for each class:

Prekindergarten ~~0.46~~ 0.5

Elementary or kindergarten 1.0

Secondary 1.13

Sec. 3. PREKINDERGARTEN EDUCATION; CALCULATION OF EQUALIZED PUPILS; EXCLUSION FROM EDUCATION SPENDING

(a) If a school district did not provide or pay for prekindergarten education pursuant to 16 V.S.A. § 829 in fiscal year 2015, then:

(1) for purposes of determining the equalized pupil count for the fiscal year 2016 budget, the long-term membership of prekindergarten children shall be the number of prekindergarten children for whom the district anticipates it will provide prekindergarten education or pay tuition, or both, in fiscal year 2016; and

(2) for purposes of determining the equalized pupil count for the fiscal year 2017 budget, the long-term membership of prekindergarten children shall be the total number of prekindergarten children for whom the district provided prekindergarten education or paid tuition, or both, in fiscal year 2016, adjusted to reflect the difference between the estimated and actual count for that fiscal year.

(b) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12) in fiscal years, 2016, 2017, and 2018 "education spending" shall not include the portion of a district's proposed budget directly attributable to providing a prekindergarten education program or paying tuition on behalf of a resident prekindergarten child pursuant to 16 V.S.A. § 829 as amended by this act.

Sec. 4. QUALITY STANDARDS

(a) The Agencies of Education and of Human Services shall review existing quality standards for prekindergarten education programs and may

initiate rulemaking under 3 V.S.A. chapter 25 to require higher standards of quality; provided, however, that no new standards shall take effect earlier than July 1, 2015. Changes to the quality standards shall be designed to ensure that programs are based on intentional, evidence-based practices that create a developmentally appropriate environment and support the delivery of an engaging program that supports the social, emotional, intellectual, language, literacy, and physical development of prekindergarten children.

(b) In January of the 2015, 2016, and 2017 legislative sessions, the Agencies shall report to the House and Senate Committees on Education, the House Committee on Human Services, and the Senate Committee on Health and Welfare regarding the quality of prekindergarten education in the State.

Sec. 5. CONSTITUTIONALITY

On or before July 1, 2014, the Secretary of Education shall identify the private prekindergarten education programs to which school districts are paying tuition on behalf of resident prekindergarten children, determine the extent to which any program provides religious prekindergarten education, and establish the steps the Agency will take to ensure that public funds are not expended in violation of Chapter I, Article 3 of the Vermont Constitution and the Vermont Supreme Court's decision in *Chittenden Town School District v. Vermont Department of Education*, 169 Vt. 310 (1999).

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2013 and shall apply to enrollments on July 1, 2015 and after.

(Committee Vote: 9-0-2)

Rep. Greshin of Warren, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Education** and when further amended as follows:

First: In Sec. 1, 16 V.S.A. § 829, subsection (d), subdivision (3), by striking the word "The" and inserting in lieu thereof the following: "Pursuant to subdivision 4001(1)(C) of this title, the"

Second: By striking out Sec. 2 (weighted membership) in its entirety

Third: In Sec. 3, by striking out subsection (b) (excess spending) in its entirety and by striking out the subsection designation for subsection (a)

Fourth: In Sec. 1, 16 V.S.A. § 829(g), and Sec. 5, before the period, by inserting the following: "or in violation of the Establishment Clause of the U.S. Constitution"

(Committee Vote: 7-4-0)

Rep. Johnson of South Hero, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Education and Ways and Means** and when further amended as follows:

First: In Sec. 1, 16 V.S.A. § 829, subsection (e), in subdivision (10), after the first period, by inserting a new sentence to read: "The Agency and Department shall be required to report annually to the General Assembly in January."

Second: In Sec. 4, subsection (b), after the words: "on Education" by inserting the words: "and on Appropriations"

(Committee Vote: 8-3-0)

Amendment to be offered by Rep. Buxton of Tunbridge to H. 270

First: In Sec. 1, 16 V.S.A. § 829, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) Access to publicly funded prekindergarten education.

(1) Pursuant to the provisions of this subsection, no fewer than ten hours per week of publicly funded prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, prequalified program pursuant to the terms of this section.

(2) A school district organized to provide elementary education to its resident students:

(A) may operate a qualified prekindergarten education program, which may be a program operated solely by the district or in partnership with one or more prequalified private providers; and

(B) shall pay tuition pursuant to the terms of this section to a prequalified private provider operating a program in which a resident prekindergarten child is enrolled; provided, however, the district may choose whether it shall pay tuition:

(i) only to prequalified private providers located within the district's specific "prekindergarten region" as determined by rule pursuant to subsection (e) of this section; or

(ii) to prequalified private providers located anywhere within the State.

(3) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified private provider

pursuant to the provisions of subdivision (2)(B) of this subsection even if the district of residence chooses to operate a prekindergarten education program pursuant to subdivision (2)(A) and the district's program has available capacity to enroll the child.

(4) If a school district chooses to pay tuition solely within its prekindergarten region pursuant to subdivision (2)(B)(i) of this subsection, and if a prekindergarten child is unable to access a publicly funded prekindergarten education program within the region, then the parent or guardian may request and in its discretion the district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified private provider located outside the prekindergarten region.

(5) Regardless of the option a district chooses under subdivision (2)(B) of this subsection, if the supply of prequalified providers is insufficient to meet the demand for publicly funded prekindergarten education in any prekindergarten region of the State, nothing in this section shall be construed to require a district to begin or expand a public, school-based program to satisfy that demand; but rather, in collaboration with the Agencies of Education and of Human Services, the local Building Bright Futures Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity.

Second: In Sec. 1, 16 V.S.A. § 829, in subsection (d), by striking out subdivisions (1) and (2) in their entirety and inserting in lieu thereof new subdivisions (1) and (2) to read:

(1) Tuition paid pursuant to subdivision (b)(2)(B) of this section shall be at a statewide rate that is established annually through a process jointly developed and implemented by the Agencies of Education and of Human Services pursuant to subdivision (e)(5) of this section. The Agencies may choose to adjust the rate in specific areas of the State. A district shall only be required to pay tuition for weeks that are within the district's academic year. A district shall pay tuition upon:

(A) receiving notice from the child's parent or guardian that the child is or will be admitted to a prekindergarten education program that is eligible to receive tuition pursuant to subdivision (b)(2)(B) of this section; and

(B) concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting, determining average daily membership, and providing quality assurance, quality improvement, and transition planning services.

(2) A district of residence shall include anticipated tuition payments and any administrative, quality assurance, quality improvement, transition

planning, or other prekindergarten-related costs in its annual budget presented to the voters. In addition, if a district chooses to operate a prekindergarten education program pursuant to subdivision (b)(2)(A) of this section, it shall also include the direct costs of operating a program within the budget.

Third: In Sec. 1, 16 V.S.A. § 829, subsection (e), in subdivision (1), by striking out the reference: "subsection (c)" and inserting in lieu thereof the reference: "subdivision (c)(2) or (3)"

Fourth: In Sec. 1, 16 V.S.A. § 829, subsection (e), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read:

(2) ~~To ensure that, if a school district begins or expands a prekindergarten education program that intends to include any of the students in its average daily membership, the district shall use existing qualified service providers to the extent that existing qualified service providers have the capacity to meet the district's needs effectively and efficiently.~~

(A) To determine, and amend as necessary, the "prekindergarten region" for each school district, which:

(i) shall not be smaller than the geographic boundaries of the school district and shall be based in part upon the availability of prequalified private and public providers, commuting patterns, and other region-specific criteria; and

(ii) shall be designed to support existing partnerships between school districts and private providers of prekindergarten education.

(B) To authorize a district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the Secretaries of Education and of Human Services, which shall be based upon analysis of the number of prekindergarten children residing in the district and the availability of enrollment opportunities with prequalified private providers in the prekindergarten region. Where the data are not clear or there are other complex considerations, the Secretaries may choose to conduct a community needs assessment.

(C) To establish a process by which a parent or guardian may request a district to pay tuition to a prequalified private provider outside the district's prekindergarten region pursuant to subdivision (b)(4) of this section.

Fifth: In Sec. 1, 16 V.S.A. § 829, subsection (e), by striking out subdivision (5) in its entirety and inserting in lieu thereof a new subdivision (5) to read:

(5) ~~To identify the services and other items for which state funds may be expended when prekindergarten children are counted for purposes of average~~

~~daily membership, such as tuition reduction, quality improvements, or professional development for school staff or private providers.~~ To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all established quality standards and to allow the Agencies to make adjustments to the rate.

H. 450

An act relating to expanding the powers of regional planning commissions

Rep. Townsend of Randolph, for the Committee on **Government Operations,** recommends the bill be amended as follows:

First: In Sec. 1, 24 V.S.A. § 4345, in subdivision (16), by striking subdivisions (B) and (C) and inserting in lieu thereof new subdivisions (B) and (C) to read:

(B) borrow money and incur indebtedness for the purposes of purchasing or leasing property for office space or may establish a line of credit if approved by a two-thirds vote of those representatives to the regional planning commission present and voting at a meeting to approve such action. Any obligation incurred under this subdivision (B):

(i) shall not encumber the grand list or any property of a member municipality; and

(ii) in the case of a purchase, shall pledge the property to be purchased as collateral and shall not exceed the fair market value of such property;

(C) at the request of one or more member municipalities, act as an escrow agent and hold funds related to a municipal capital project or a project subject to a municipal land use permit in an escrow account, including taxes to be paid by the project, fines, and developer fees. Funds so held shall be segregated in a special account for each project on the books of the regional planning commission and, within each project account, by municipality. However, this subdivision (C) shall not confer authority on a regional planning commission to hold tax increment revenues received from a tax increment financing district under chapter 53, subchapter 5 of this title; and

Second: In Sec. 1, 24 V.S.A. § 4345, in subdivision (16), in subdivision (D), after "Vermont", by inserting "and the federal government,"

Third: In Sec. 2, 24 V.S.A. § 4346, by striking the first sentence and inserting in lieu thereof:

Regional planning commissions may apply for, receive, and expend monies from any source, public or private, including~~, without limitation,~~ grants, loans,

and funds made available by the participating municipalities, and by ~~the agency of commerce and community development~~ an agency or department of the State of Vermont, out of state funds appropriated to that agency or department for this purpose.

(Committee Vote: 9-0-2)

H. 535

An act relating to the approval of the adoption and to the codification of the charter of the Town of Woodford

Rep. Mook of Bennington, for the Committee on **Government Operations,** recommends the bill be amended as follows:

In Sec. 2, in 24 V.S.A. chapter 162, in § 6 (open meetings), by striking out the last sentence in its entirety and inserting in lieu thereof the following: "No executive session shall be held except in accordance with the terms of the general law."

(Committee Vote: 10-0-1)

H. 538

An act relating to making miscellaneous amendments to education funding laws.

(Rep. Ancel of Calais will speak for the Committee on **Ways and Means.)**

Rep. Winters of Williamstown, for the Committee on **Appropriations,** recommends the bill be amended as follows::

In Sec. 12, subsection (c), by striking out subdivisions (3) through (5) in their entirety and inserting in lieu thereof two new subdivisions to be subdivisions (3) and (4) to read:

(3) incentives for compliance; and

(4) implementation dates that apply the staffing ratios beginning in school year 2015–2016 with tax penalties for noncompliance beginning in school year 2016–2017.

(**Committee Vote 8-3-0)**

Amendment to be offered by Rep. Donovan of Burlington to H. 538

By striking out Sec. 12 in its entirety and inserting in lieu thereof a new Sec. 12 to read:

Sec. 12. STUDENT-TO-STAFF RATIOS

The Secretary of Education shall collect data necessary to inform

development of a comprehensive plan to establish minimum student-to-staff ratios, student-to-administrator ratios, student-to-classroom teacher ratios, and student-to-teacher ratios in public elementary and secondary schools and supervisory unions in a manner that promotes educational opportunities and outcomes for students in Vermont. On or before November 30, 2013, the Secretary shall present the data to the House and Senate Committees on Appropriations and on Education, the House Committee on Ways and Means, and the Senate Committee on Finance.

Amendment to be offered by Rep. Donovan of Burlington to H. 538

By adding a new section to be Sec. 13 to read:

Sec. 13. SMALL SCHOOL QUALITY; STUDY

The Secretary of Education shall examine the quality of opportunities and the educational outcomes for students enrolled in schools that receive small school support pursuant to 16 V.S.A. § 4015. In particular, the Secretary shall compare outcomes for students qualifying for free or reduced school meals who are enrolled in small schools versus the outcomes for the same population of students who are enrolled in larger Vermont schools. The Secretary shall consider whether and to what extent the quality of education provided should be considered when determining whether a school district should remain eligible for small school support pursuant to the amendments contained in Sec. 3 of this act. On or before January 15, 2014, the Secretary shall submit a report to the House and Senate Committees on Education detailing the results of this study and presenting recommendations for any changes to statute or rule.

and by renumbering the remaining section to be numerically correct

S. 1

An act relating to consideration of financial cost of criminal sentencing options

Rep. Wizowaty of Burlington, for the Committee on **Judiciary,** recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. CRIMINAL JUSTICE CONSENSUS COST-BENEFIT WORKING GROUP

(a)(1) A Criminal Justice Consensus Cost-Benefit Working Group is established to develop collaboratively a criminal and juvenile justice cost-benefit model for Vermont for the purpose of providing policymakers with the information necessary to weigh the pros and cons of various strategies

and programs, and enable them to identify options that are not only cost-effective, but also have the greatest net social benefit. The model will be used to estimate the costs related to the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants, and victimization of citizens by defendants.

(2) The Working Group shall:

(A) develop estimates of costs associated with the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants in Vermont by using the cost-benefit methodology developed by the Washington State Institute for Public Policy and currently used collaboratively by the Joint Fiscal Office and the PEW Charitable Trust for the Vermont Results First Project;

(B) estimate costs incurred by citizens who are the victims of crime by using data from the Vermont Center of Crime Victim Services, supplemented where necessary with national survey data;

(C) assess the quality of justice data collection systems and make recommendations for improved data integration, data capture, and data quality as appropriate;

(D) develop a throughput model of the Vermont criminal and juvenile justice systems which will serve as the basic matrix for calculating the cost and benefit of Vermont justice system programs and policies;

(E) investigate the need for and most appropriate entity within state government to be responsible for:

(i) revising the statewide cost benefit model in light of legislative or policy changes, or both, in the criminal or juvenile justice systems;

(ii) updating cost estimates; and

(iii) updating throughput data for the model.

(3) The Working Group shall be convened and staffed by the Vermont Center for Justice Research.

(4) The costs associated with staffing the Working Group shall be underwritten through December 31, 2013 by funding previously obtained by the Vermont Center for Justice Research from the Bureau of Justice Statistics, U.S. Department of Justice.

(b) The Working Group shall be composed of the following members:

(1) the Administrative Judge or designee;

(2) the Chief Legislative Fiscal Officer or designee;

(3) the Attorney General or designee;

(4) the Commissioner of Corrections or designee;

(5) the Commissioner for Children and Families or designee;

(6) the Executive Director of State's Attorneys and Sheriffs or designee;

(7) the Defender General or designee;

(8) the Commissioner of Public Safety or designee;

(9) the Director of the Vermont Center for Crime Victim Services or designee;

(10) the President of the Chiefs of Police Association of Vermont or designee;

(11) the President of the Vermont Sheriffs' Association or designee; and

(12) the Director of the Vermont Center for Justice Research.

(c) On or before November 15, 2013, the Working Group shall report its preliminary findings to the Senate Committee on Judiciary, the House Committee on Judiciary, and the House Committee on Corrections and Institutions. The Working Group shall issue a final report to the General Assembly on or before January 1, 2014.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 10-0-1)

(For text see Senate Journal 2/6/2013)

S. 151

An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation

Rep. Kilmartin of Newport City, for the Committee on **Transportation,** recommends that the House propose to the Senate that the bill be amended as follows:

By inserting a new Sec. 2 to read:

Sec. 2. 23 V.S.A. § 102(d) is amended to read:

(d) The ~~commissioner~~ Commissioner may authorize background investigations for potential employees that may include criminal, traffic, and financial records checks; provided, however, that the potential employee is notified and has the right to withdraw his or her name from application.

Additionally, employees who are ~~authorized to manufacture or produce~~ involved in the manufacturing or production of operators' licenses and identification cards, including enhanced licenses, or who have the ability to affect the identity information that appears on a license or identification card, or current employees who will be assigned to such positions, shall be subject to appropriate background checks and shall be provided notice of the background check and the contents of that check. These background checks will include a name-based and fingerprint-based criminal history records check using at a minimum the Federal Bureau of Investigation's National Crime Information Center and the Integrated Automated Fingerprint Identification database and state repository records on each covered employee. Employees may be subject to further appropriate security ~~clearance~~ clearances if required by federal law, including background investigations that may include criminal and traffic~~,~~ records checks~~,~~ and providing proof of United States citizenship. The ~~commissioner~~ Commissioner may, in connection with a formal disciplinary investigation, authorize a criminal or traffic record background investigation of a current employee; provided, however, that the background review is relevant to the issue under disciplinary investigation. Information acquired through the investigation shall be provided to the ~~commissioner~~ Commissioner or designated division director, and must be maintained in a secure manner. If the information acquired is used as a basis for any disciplinary action, it must be given to the employee during any pretermination hearing or contractual grievance hearing to allow the employee an opportunity to respond to or dispute the information. If no disciplinary action is taken against the employee, the information acquired through the background check shall be destroyed.

and by renumbering the remaining section to be numerically correct.

(Committee vote: 10-0-1)

(No Senate Amendments)

Rep. Masland of Thetford, for the Committee on **Ways and Means,** recommends the bill ought to pass when amended as recommended by the Committee on **Transportation.**

(Committee Vote: 8-0-3)

Senate Proposal of Amendment

H. 71

An act relating to tobacco products

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

First: In Sec. 22, 33 V.S.A. § 1918, in subdivision (f)(1), by striking out the

second sentence in its entirety and inserting in lieu thereof the following: The bond shall be issued by a surety company in good standing and authorized to transact business in this State to secure the payment of any escrow due or which may become due from the nonparticipating manufacturer or its United States importer.

Second: By striking out Sec. 23 in its entirety and inserting in lieu thereof the following:

Sec. 23. EFFECTIVE DATES

This section shall take effect on passage. Sec. 19 of this act shall take effect on June 30, 2013. All remaining sections shall take effect on July 1, 2013.

(For text see House Journal 2/28/2013 and 3/1/2013)

H. 510

An act relating to the State's transportation program and miscellaneous changes to the State's transportation laws

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

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2014 transportation program appended to the Agency of Transportation's proposed fiscal year 2014 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) "Secretary" means the Secretary of Transportation.

(3) The table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" or "TIB" refers to monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Program Development – Funding Sources * * *

Sec. 1a. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified in accordance with this section. Among projects selected in the Secretary's discretion, the Secretary shall:

(1) reduce project spending authority in the total amount of $3,827,500.00 in transportation funds;

(2) increase project spending authority in the total amount of $2,087,500.00 in TIB bond proceeds on projects eligible under 32 V.S.A. § 972; and

(3) increase project spending authority in the total amount of $1,740,000.00 in federal funds.

* * * Town Highway Bridge * * *

Sec. 2. TOWN HIGHWAY BRIDGE

The following modification is made to the town highway bridge program:

(1) Spending authority for the Mount Tabor project to replace bridge 2 on town highway 1 (VT FH 17-1(1)) is added to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	0	1,579,500	1,579,500
Total	0	1,579,500	1,579,500
Sources of funds			
State	0	0	0
TIB	0	0	0
Federal	0	1,579,500	1,579,500
Local	0	0	0
Total	0	1,579,500	1,579,500

* * * Maintenance * * *

Sec. 3. MAINTENANCE

(a) Total authorized spending in the maintenance program is amended as follows:

FY14	As Proposed	As Amended	Change
Personal services	39,744,134	39,744,134	0
Operating expenses	50,687,536	48,877,536	-1,810,000
Grants	75,000	75,000	0
Total	90,506,670	88,696,670	-1,810,000
Sources of funds			
State	79,961,670	78,151,670	-1,810,000

Federal	10,445,000	10,445,000	0
Interdep't transfer	100,000	100,000	0
Total	90,506,670	88,696,670	-1,810,000

(b) The reduction in authorized maintenance program spending under subsection (a) of this section shall be allocated among maintenance activities as specified by the Secretary.

* * * Paving * * *

Sec. 4. PROGRAM DEVELOPMENT – PAVING

(a) Spending authority for the statewide–district leveling activity within the program development–paving program is amended to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	6,000,000	5,338,000	-662,000
Total	6,000,000	5,338,000	-662,000
Sources of funds			
State	6,000,000	5,338,000	-662,000
TIB	0	0	0
Federal	0	0	0
Total	6,000,000	5,338,000	-662,000

(b) Spending authority for the Bethel–Randolph Resurface VT 12 project (STP 2921()) is amended to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	5,200,000	5,200,000	0
Total	5,200,000	5,200,000	0
Sources of funds			
State	1,585,563	983,840	-601,723
TIB	-601,723	0	601,723
Federal	4,216,160	4,216,160	0
Total	5,200,000	5,200,000	0

(c) Spending authority for the Bolton–Waterbury Resurface US 2 project (STP 2709(1)) is amended to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	6,530,000	6,530,000	0
Total	6,530,000	6,530,000	0
Sources of funds			

State	0	601,723	601,723
TIB	1,235,476	633,753	-601,723
Federal	5,294,524	5,294,524	0
Total	6,530,000	6,530,000	0

(d) Spending authority on the Weathersfield Resurface VT 131 project (STP 2913(1)) within the program development – paving program is amended to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	5,000,000	5,000,000	0
Total	5,000,000	5,000,000	0
Sources of funds			
State	946,000	696,000	-250,000
TIB	0	250,000	250,000
Federal	4,054,000	4,054,000	0
Total	5,000,000	5,000,000	0

* * * Rest Areas * * *

Sec. 5. REST AREAS

Spending authority on the Derby–Welcome Center project within the rest area program is amended to read:

FY14	As Proposed	As Amended	Change
PE	50,000	50,000	0
Construction	2,500,000	0	-2,500,000
Total	2,550,000	50,000	-2,500,000
Sources of funds			
State	0	0	0
TIB	255,000	5,000	-250,000
Federal	2,295,000	45,000	-2,250,000
Total	2,550,000	50,000	-2,500,000

* * * Rail * * *

Sec. 6. RAIL

(a) The Secretary shall reduce by $600,000.00 the spending of fiscal year 2014 state transportation funds on projects or activities within the rail program selected at his or her discretion.

(b) Authorized spending in the fiscal year 2014 rail program shall be reduced by $200,000.00 in transportation funds, and $500,000.00 in TIB funds, which were previously authorized in the fiscal year 2013 transportation

program and appropriated in the 2013 appropriations bill.

Sec. 7. CANCELLATION OF RAIL PROJECTS

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following rail projects:

(1) Salisbury-Middlebury – 05G342 – Rail Improvements;

(2) White River Junction-Newport – 05G350 – Improve RR Bridges;

(3) Proctor-New Haven – STRB(37) – 08G090 – Repair and/or Replace 6 Bridges;

(4) Middlebury – WCRS( ) – 09G108 – Bridge 236;

(5) Waterbury – STP 2036(10) – 09G364 – Crossing;

(6) Rutland–Fair Haven – 09G372 – 2 Miles of CWR;

(7) Rutland–Fair Haven – 11G254 – Crossings.

Sec. 8. PITTSFORD BRIDGE 219 PROJECT

For the Pittsford Bridge 219 Project (HPP ABRB(9)), the estimate of total construction costs of $10,350,000.00 is deleted and replaced with the amount of $2,100,000.00, and the estimate of the total cost of all activities of $11,863,814.00 is deleted and replaced with the amount of $3,613,814.00.

* * * Amtrak Vermont Services; Fares * * *

Sec. 8a. AMTRAK VERMONT SERVICES; FARES

The Agency shall work with Amtrak and other states with which Vermont has agreements under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) to implement as soon as possible fares that maximize revenues for Vermont. The goal of the change in fares is to reduce by at least 20 percent the amount of the year-over-year increase in Vermont's subsidy to Amtrak required under PRIIA in fiscal year 2014.

* * * Aviation * * *

Sec. 9. AVIATION

(a) Spending authority on the Statewide-Airport Facilities Maintenance and Improvements project (AIR 04-3144) within the aviation program is amended to read:

FY14	As Proposed	As Amended	Change
Construction	1,850,758	1,710,758	-140,000
Total	1,850,758	1,710,758	-140,000

Sources of funds			
State	1,810,758	1,670,758	-140,000
TIB	0	0	0
Federal	40,000	40,000	0
Total	1,850,758	1,710,758	-140,000

(b) The Secretary shall reduce the spending of state transportation funds on activities within the Statewide-Airport Facilities Maintenance and Improvements project selected at his or her discretion in the amount specified in subsection (a) of this section.

* * * Fiscal Year 2014 Transportation Infrastructure Bonds * * *

Sec. 10. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

Pursuant to 32 V.S.A. § 972, the State Treasurer is authorized to issue transportation infrastructure bonds up to a total amount of $11,700,000.00 for the purpose of funding:

(1) the spending authorized in Sec. 11 of this act;

(2) a debt service reserve to support the successful issuance of transportation infrastructure bonds; and

(3) the cost of preparing, issuing, and marketing the bonds as authorized under 32 V.S.A. § 975.

Sec. 11. TRANSPORTATION INFRASTRUCTURE BONDS; SPENDING AUTHORITY

The amount of $10,387,500.00 from the issuance of transportation infrastructure bonds is authorized for expenditure in fiscal year 2014 on eligible projects as defined in 32 V.S.A. § 972(d) on projects in the State's fiscal year 2014 program development program.

* * * Transportation Alternatives Grant Program* * *

Sec. 12. 19 V.S.A. § 38 is amended to read:

§ 38. TRANSPORTATION ~~ENHANCEMENT~~ ALTERNATIVES GRANT PROGRAM

(a) The ~~Vermont transportation enhancement grant committee~~ Transportation Alternatives Grant Committee is created and shall be comprised of:

(1) the ~~secretary of transportation~~ Secretary of Transportation or his or her designee~~,~~;

(2) a representative from the ~~division of historic preservation~~ Division of Historic Preservation appointed by the ~~secretary of the agency of commerce and community development~~ Secretary of Commerce and Community Development~~,~~;

(3) one member ~~to be~~ appointed by the ~~secretary of the agency of commerce and community development~~ Secretary of Commerce and Community Development to represent the tourism and marketing industry~~,~~;

(4) a representative of the ~~agency of natural resources~~ Agency of Natural Resources appointed by the ~~secretary of the agency of natural resources,~~ Secretary of Natural Resources;

(5) three municipal representatives appointed by the governing body of the Vermont ~~league of cities and towns,~~ League of Cities and Towns;

(6) one member representing and appointed by the governing board of the Vermont ~~association of planning and development agencies,~~ Association of Planning and Development Agencies;

(7) two members from the ~~house~~ House designated by the ~~speaker,~~ Speaker; and

(8) two members from the ~~senate~~ Senate designated by the ~~committee on committees~~ Committee on Committees.

(b) Municipal and legislative members of the Transportation Alternatives Grant Committee shall serve concurrently for two-year terms and the initial appointments of these members shall be made in a manner which allows for them to serve a full legislative biennium. In the event a municipal or legislative member ceases to serve on the ~~committee~~ Committee prior to the full term, the appointing authority shall fill the position for the remainder of the term. The ~~committee~~ Committee shall, to the greatest extent practicable, encompass a broad geographic representation of Vermont.

~~(b)~~(c) The ~~Vermont transportation enhancement grant program~~ Transportation Alternatives Grant Program is created. The ~~grant program shall be funded as provided in subsection (c) of this section and~~ Grant Program shall be administered by the ~~agency~~ Agency, and shall be funded in the amount provided for in 23 U.S.C. § 213(a), less the funds set aside for the Recreational Trails Program as specified in 23 U.S.C. § 213(f). ~~The grant program~~ Awards shall be made to eligible entities as defined under 23 U.S.C. § 213(c)(4), and awards under the Grant Program shall be limited to ~~enhancement~~ the activities ~~as defined in~~ described at 23 U.S.C. § ~~101(a)(35) which are sponsored by municipalities, nonprofit organizations, or political subdivisions of the state other than the agency~~ 213(b) other than Recreational Trails Program grants.

(d) Eligible ~~applicants~~ entities awarded a grant must provide all funds required to match federal funds awarded for ~~an enhancement~~ a transportation alternatives project. All grant awards shall be decided and awarded by the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

~~(c) The following federal aid highway program funds received by the state under the federal aid highway reauthorization act, and succeeding reauthorization acts, that succeed the Transportation Equity Act for the 21st Century (Public Law 105-178 as amended) shall be exclusively reserved to cover the costs of enhancement projects awarded grants under the Vermont transportation enhancement grant program with respect to federal fiscal years 2004 and thereafter:~~

~~(1) at a minimum, four percent of the state's apportionment of surface transportation funds received by the state under 23 U.S.C. § 104(b)(3) over the life of the applicable federal reauthorization act; and, if greater,~~

~~(2) at a maximum, the state's apportionment of federal aid highway program funds that are exclusively reserved for transportation enhancement activities under 23 U.S.C. § 133(d)(2) received by the state over the life of the applicable federal reauthorization act.~~

~~(d) For each fiscal year starting with fiscal year 2005, the agency shall determine or estimate as required:~~

~~(1) the state's apportionment of surface transportation program funds which the state expects to receive under 23 U.S.C. § 104(b)(3) with respect to the equivalent federal fiscal year; and~~

~~(2) the state's pro rata apportionment of federal aid highway program funds which are exclusively reserved for transportation enhancement activities under 23 U.S.C. 133(d)(2). To determine the pro rata amount, the agency shall estimate the total amount of exclusively reserved funds expected to be received by the state over the life of the applicable federal reauthorization act, subtract the total amount of enhancement grants awarded under this section with respect to prior federal fiscal years of the applicable federal reauthorization act, and divide the resulting sum by the number of years remaining in the life of the applicable federal reauthorization act. The agency shall adjust the amounts determined under subdivisions (1) and (2) of this subsection to account for any differences between estimates made, actual appropriations received, and enhancement grants awarded with respect to applicable prior federal fiscal years.~~

~~(e)(1) For each fiscal year starting with fiscal year 2005, the state's enhancement grant program for the fiscal year shall be at the discretion of the~~

~~secretary:~~

~~(A) at a minimum, four percent of the adjusted amount ascertained by the agency under subdivision (d)(1) of this section; and~~

~~(B) at a maximum, the adjusted amount ascertained by the agency under subdivision (d)(2) of this section.~~

~~(2) The agency shall plan its budget accordingly and advise the general assembly in its recommended budget:~~

~~(A) if sufficient information is available to determine a sum certain, of the amount of the enhancement grant program; or~~

~~(B) if sufficient information is not available to determine a sum certain, of the range within which the agency estimates the size of the enhancement grant program will be.~~

~~(f)~~(e) ~~Enhancement~~ Transportation alternatives grant awards shall be announced annually by the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee not earlier than December and not later than the following March ~~of the federal fiscal year of the federal funds being committed by the grant awards~~.

~~(g)~~(f) Each year, ~~up to~~ $200,000.00 of the grant program or such lesser sum if all eligible applications amount to less than $200,000.00 shall be reserved for municipalities for eligible salt and sand shed projects. Grant awards for eligible projects shall not exceed $50,000.00 per project. Regarding the balance of grant program funds, in evaluating applications for ~~enhancement~~ transportation alternatives grants, the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

~~(h)~~(g) The ~~agency~~ Agency shall develop an outreach and marketing effort designed to provide information to communities with respect to the benefits of participating in the ~~enhancement program~~ Transportation Alternatives Grant Program. The outreach and marketing activities shall include apprising municipalities of the availability of grants for salt and sand sheds. The outreach effort should be directed to areas of the ~~state~~ State historically underserved by this program.

Sec. 12a. 19 V.S.A. § 42 is amended to read:

§ 42. REPORTS PRESERVED

Notwithstanding 2 V.S.A. § 20(d), the reports or reporting requirements of sections 7(k), 10b(d), 10c(k), 10c(l), 10e(c), 10g, 11f(i), 12a, and 12b(d)~~, and 38(e)(2)~~ of this title shall be preserved absent specific action by the ~~general assembly~~ General Assembly repealing the reports or reporting requirements.

Sec. 13. TRANSPORTATION ALTERNATIVES GRANT PROGRAM PRIORITIES; CONFORMING AMENDMENTS

2012 Acts and Resolves No. 153, Sec. 24 is amended to read:

Sec. 24. ~~ENHANCEMENT~~ TRANSPORTATION ALTERNATIVES GRANT PROGRAM PRIORITIES

In addition to the priorities for salt and sand shed projects and bicycle or pedestrian facility projects specified in 19 V.S.A. § ~~38(g)~~ 38(f), in evaluating applications for ~~enhancement~~ transportation alternatives grants in fiscal years ~~2013,~~ 2014~~,~~ and 2015, the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee shall give preferential weighting to projects involving a municipality implementing eligible environmental mitigation projects under a river corridor plan that has been adopted by the ~~agency of natural resources~~ Agency of Natural Resources as part of a basin plan, under a municipal plan adopted pursuant to 24 V.S.A. § 4385, or under a mitigation plan adopted by the municipality and approved by the Federal Emergency Management Agency. The degree of preferential weighting afforded shall be in the complete discretion of the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

* * * Central Garage * * *

Sec. 14. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2014, the amount of $1,120,000.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * State Highways; Relinquishment to Municipal Control * * *

Sec. 15. 19 V.S.A. § 15 is amended to read:

§ 15. CHANGES IN THE STATE HIGHWAY SYSTEM

(a) ~~Highways~~ Except as provided in subsection (b) of this section, highways may be added to or deleted from the state highway system by:

(1) ~~legislative action~~ an act of the General Assembly; or

(2) a proposal by the ~~agency~~ Agency which is accepted by the legislative body of the affected municipality and approved by an act of the ~~general assembly~~ General Assembly.

(b) Upon entering into an agreement with the affected municipality, the Secretary may relinquish to municipal control segments of state highway rights-of-way that have been replaced by new construction and are no longer needed as part of the state highway system. Upon their relinquishment to municipal control, the segments shall become class 3 town highways, and may be reclassified by the municipality in accordance with chapter 7 of this title.

* * * State Highway System; Town of Clarendon * * *

Sec. 15a. STATE HIGHWAY SYSTEM; TOWN OF CLARENDON

Pursuant to 19 V.S.A. § 15, the General Assembly approves the addition to the state highway system of a segment of Airport Road (TH #7) in the Town of Clarendon extending from its intersection with Vermont Route 103 to the main entrance of the Rutland–Southern Vermont Regional Airport. The existing 35 miles per hour speed limit on this segment of Airport Road shall remain in force after its transfer to the state highway system, unless and until the Traffic Committee alters the speed limit pursuant to 23 V.S.A. § 1003.

* * * Transportation Board; Small Claims Against the Agency * * *

Sec. 16. 19 V.S.A. § 20 is amended to read:

§ 20. SMALL CLAIMS FOR INJURY OR DAMAGE

~~When a claim~~ ~~is~~ The Board shall have exclusive jurisdiction over claims of $5,000.00 or less made for personal injuries or property damage, or both, sustained as the result of the negligence of any employee of the ~~agency, the board~~ Agency. The Board may hear all parties in interest and may award damages not to exceed ~~$2,000.00~~ $5,000.00. When the Board awards damages ~~are awarded, the board~~, it shall certify its ~~findings~~ decision to the ~~commissioner of finance and management who~~ Commissioner of Finance and Management. Upon the disposition of any appeal or the expiration or waiver of all appeal rights, the Commissioner of Finance and Management shall issue his or her warrant for the amount of the award, with payment in the manner prescribed by 12 V.S.A. § 5604.

* * * Limited Access Facilities; Fair Market Value Rent * * *

Sec. 17. 19 V.S.A. § 26a is amended to read:

§ 26a. DETERMINATION OF RENT TO BE CHARGED FOR LEASING OR LICENSING STATE-OWNED PROPERTY UNDER THE AGENCY'S JURISDICTION

(a) Except as otherwise provided by subsection (b) of this section, or as otherwise provided by law, leases or licenses negotiated by the ~~agency~~ Agency under 5 V.S.A. §§ 204 and 3405 and ~~section~~ sections 26 and 1703(d) of this

title ordinarily shall require the payment of fair market value rent, as determined by the prevailing area market prices for comparable space or property. However, the ~~agency~~ Agency may lease or license state-owned property under its jurisdiction for less than fair market value when the ~~agency~~ Agency determines that the proposed occupancy or use serves a public purpose or that there exist other relevant factors, such as a prior course of dealing between the parties, that justify setting rent at less than fair market value.

* * *

* * * Emergency Repairs; Condemnation Authority * * *

Sec. 18. 19 V.S.A. § 518 is amended to read:

§ 518. MINOR ALTERATIONS TO EXISTING FACILITIES

(a) For purposes of this section, the term "minor alterations to existing facilities" means any of the following activities involving existing facilities, provided the activity does not require a permit under 10 V.S.A. chapter 151 (Act 250):

(1) Activities which qualify as "categorical exclusions" under 23 C.F.R. § 771.117~~(c)~~ and the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321–4347~~, and do not require a permit under 10 V.S.A. chapter 151 (Act 250)~~; or

(2) Activities involving emergency repairs to or emergency replacement of an existing bridge ~~or~~, culvert, highway, or state-owned railroad, even ~~though~~ if the need for repairs or replacement does not arise from damage caused by a natural disaster or catastrophic failure from an external cause~~; provided, however, that the activities do not require a permit under 10 V.S.A. chapter 151 (Act 250)~~. Any temporary rights under this subdivision shall be limited to 10 years from the date of taking.

(b) In cases involving minor alterations to existing facilities, the ~~agency~~ Agency, following the procedures of section 923 of this title, may exercise the powers of a selectboard. If an appeal is taken under subdivision 923(5) of this title, the person taking the appeal shall follow the procedure specified in section 513 of this title.

* * * Secretary's Authority with Regard to Junkyards * * *

Sec. 19. 19 V.S.A. § 7(f) is amended to read:

(f) The ~~secretary~~ Secretary may:

* * *

(7) organize, reorganize, transfer, or abolish sections and staff function

sections within the ~~agency~~ Agency; except however, the ~~secretary~~ Secretary may not alter the number of highway districts without legislative approval~~; and~~

~~(8) adopt rules regarding the operation of junkyards~~.

* * * State Highway Closures * * *

Sec. 20. 19 V.S.A. § 43 is amended to read:

§ 43. STATE HIGHWAY CLOSURES

(a) For purposes of this section, the phrase "planned closure of a state highway" means the closure of a state highway for more than 48 hours for a project that is part of the State's annual transportation program. The phrase does not include emergency projects, or closures of 48 hours or less for maintenance work.

(b) Before the planned closure of a state highway, the ~~agency~~ Agency shall:

(1) contact the legislative body of any municipality affected by the closure to determine whether the legislative body wishes to convene a regional public meeting for the purpose of ~~listening to~~ hearing public concerns~~. The agency~~ regarding the planned closure; and

(2) conduct a regional public meeting if requested by the legislative body of a municipality affected by the closure.

(c) To address concerns raised at a meeting held pursuant to subsection (b) of this section or otherwise to reduce adverse impacts of the planned closure of a state highway, the Agency shall consult with other state agencies and departments, regional chambers of commerce, regional planning commissions, local legislative bodies, emergency medical service organizations, school officials, and area businesses to develop mitigation strategies ~~to reduce the impact of the planned closure on the local and regional economies~~.

~~(b)~~(d) In developing mitigation strategies, the ~~agency~~ Agency shall consider the need to provide a level of safety for the traveling public comparable to that available on the segment of state highway affected by the planned closure. If the ~~agency~~ Agency finds town highways unsuitable for a signed detour, the ~~agency~~ Agency will advise local legislative bodies of the reasons for its determination.

* * * Taxation of Diesel and Motor Fuels * * *

Sec. 21. 23 V.S.A. § 3003 is amended to read:

§ 3003. IMPOSITION OF TAX; EXCEPTIONS

(a) A tax of ~~$0.25~~ $0.27, a fee of $0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a $0.03 motor fuel transportation

infrastructure assessment~~,~~ which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

(1) sold or delivered by a distributor; or

(2) used by a user.

* * *

Sec. 22. 23 V.S.A. § 3003 is amended to read:

(a) A tax of ~~$0.27~~ $0.29, a fee of $0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a $0.03 motor fuel transportation infrastructure assessment which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

(1) sold or delivered by a distributor; or

(2) used by a user.

* * *

Sec. 23. 23 V.S.A. § 3106 is amended to read:

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this ~~state~~ State, which sales shall be exempt from the ~~tax and from the motor fuel transportation infrastructure assessment~~ taxes and assessments authorized under this section, ~~in all cases not~~ unless exempt ~~from the tax~~ under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the ~~commissioner~~ Commissioner:

(A) a tax of ~~$0.19~~ $0.115 upon each gallon of motor fuel sold by the distributor~~,~~; and

(B) the following assessments, which shall be levied on the tax-adjusted retail price of gasoline as defined herein:

(i) a motor fuel transportation infrastructure assessment in the amount of two percent of the tax-adjusted retail price upon each gallon of motor fuel sold by the distributor~~, exclusive of: all federal and state taxes, the petroleum distributor licensing fee established by 10 V.S.A. § 1942, and the motor fuel transportation infrastructure assessment authorized by this section. The retail price shall be based upon the average retail prices for regular gasoline determined and published by the department of public service. The retail price applicable for the January-March quarter shall be the average of the retail prices published by the department of public service the prior October,~~

~~November, and December; and the retail price applicable in each succeeding calendar quarter shall be equal to the average of the retail prices published by the department of public service in the preceding quarter~~; and

(ii) a fuel tax assessment, which shall be used exclusively for transportation purposes and not be transferred from the Transportation Fund, that is the greater of:

(I) $0.134 per gallon; or

(II) four percent of the tax-adjusted retail price or $0.18 per gallon, whichever is less, upon each gallon of motor fuel sold by the distributor.

(2) For the purposes of subdivision (1)(B) of this subsection, the retail price applicable for a quarter shall be the average of the monthly retail prices for regular gasoline determined and published by the Department of Public Service for the three months of the preceding quarter. The tax-adjusted retail price applicable for a quarter shall be the retail price exclusive of: all federal and state taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942, at the rates applicable in the preceding quarter.

(3) The distributor shall also pay to the ~~commissioner a tax and a motor fuel transportation infrastructure assessment in the same amounts~~ Commissioner the tax and assessments specified in this subsection upon each gallon of motor fuel used within the ~~state~~ State by him or her.

* * *

Sec. 24. MOTOR FUEL ASSESSMENTS: MAY 1, 2013–SEPTEMBER 30, 2013

Notwithstanding the provisions of 23 V.S.A. § 3106(a)(1)(B) and 3106(a)(2), from May 1, 2013 through September 30, 2013, the motor fuel transportation infrastructure assessment required under 23 V.S.A. § 3106(a)(1)(B)(i) shall be $0.0656 per gallon, and the fuel tax assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be $0.134 per gallon.

* * * DUI Special Enforcement Fund * * *

Sec. 25. 23 V.S.A. § 1220a(b) is amended to read:

(b) The DUI enforcement special fund shall consist of:

(1) receipts from the surcharges assessed under section 206 and subsections 674(i), 1091(d), 1094(f), 1128(d), 1133(d), 1205(r), and 1210(k) of this title;

(2) beginning in fiscal year 2000 and thereafter, the first $150,000.00 of revenues collected from fines imposed under subchapter 13 of chapter 13 of this title pertaining to DUI related offenses;

(3) beginning ~~in fiscal year 2000~~ May 1, 2013 and thereafter, ~~two percent~~ $0.0038 per gallon of the revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this title; and

(4) any additional funds transferred or appropriated by the ~~general assembly~~ General Assembly.

* * * Transfer of Position * * *

Sec. 26. TRANSFER OF POSITION

Effective May 1, 2013, one position (080134) and any funds related thereto are transferred from the Department of Taxes to the Department of Motor Vehicles.

* * * Appropriation of Transportation Funds * * *

Sec. 27. 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR THE DEPARTMENT OF PUBLIC SAFETY

No transportation funds shall be appropriated for the support of government other than for the ~~agency of transportation~~ Agency, the ~~transportation board~~ Board, transportation pay act funds, construction of transportation capital facilities ~~used by the agency of transportation~~, transportation debt service, the ~~department of buildings and general services~~ operation of information centers by the Department of Buildings and General Services, and the ~~department of public safety~~ Department of Public Safety. The amount of transportation funds appropriated to the ~~department of public safety~~ Department of Public Safety shall not exceed:

(1) $25,250,000.00 in fiscal year 2014;

(2) $22,750,000.00 in fiscal year 2015; and

(3) $20,250,000.00 in fiscal year 2016 and in succeeding fiscal years.

* * *

* * * Electric Vehicles; Contribution to Transportation Fund; Study * * *

Sec. 28. STUDY OF CHARGES ON ELECTRICITY USED TO POWER PLUG-IN ELECTRIC VEHICLES

(a) The Commissioner of Public Service or designee and the Commissioner of Taxes or designee (collectively, the "Commissioners"), in consultation with

the Public Service Board, the Commissioner of Motor Vehicles or designee, the Joint Fiscal Office, and any other persons or entities the Commissioners deem appropriate, shall study the feasibility, alternative implementation mechanisms, and timeline for replacing, in whole or in part, motor fuel tax revenues not collected from operators of plug-in hybrid and all-electric vehicles. The Commissioners shall develop recommendations as to the most reasonable and efficient mechanisms, and a realistic time frame, to charge operators of plug-in hybrid and all-electric vehicles for their use of transportation infrastructure so as to contribute to the Transportation Fund.

(b) On or before December 15, 2013, the Commissioners shall submit a written report of their findings and recommendations to the House and Senate Committees on Transportation. The Commissioners' report shall also identify which recommendations would require legislative action and include proposed legislation to implement any recommendations requiring legislative action.

* * * Propane and Natural Gas-Powered Vehicles; Study * * *

Sec. 29. PROPANE AND NATURAL GAS-POWERED VEHICLES; STUDY

(a)(1) In Act 153 of 2012, the General Assembly required that effective on July 1, 2013, the sales and use tax on natural gas used to propel a motor vehicle be allocated to the Transportation Fund. The applicable sales and use tax rate is six percent. Act 153 did not address propane used to propel motor vehicles.

(2) In a November 5, 2012 report submitted pursuant to 2012 Acts and Resolves No. 153, Sec. 39, the Vermont Energy Investment Corporation found that the six percent sales and use tax rate on natural gas would be insufficient to replace motor fuel or diesel tax revenues not collected from operators of motor vehicles propelled by natural gas. The report did not address motor vehicles propelled by propane.

(b) The Commissioner of Motor Vehicles or designee ("Commissioner"), in consultation with the Commissioner of Taxes or designee, the Joint Fiscal Office, and any other persons or entities the Commissioner deems appropriate, shall study mechanisms to charge operators of motor vehicles propelled by natural gas or by propane for their use of the transportation system, so as to replace, in whole or in part, motor fuel or diesel tax revenues not collected from such operators. The Commissioner shall formulate recommendations on the most reasonable and efficient mechanisms to charge such operators and identify implementation steps required.

(c) On or before December 15, 2013, the Commissioner shall submit a written report of his or her findings and recommendations to the House and

Senate Committees on Transportation. The Commissioner's report shall also identify which recommendations would require legislative action and include proposed legislation to implement any recommendations requiring legislative action.

* * * State Facilities Served by Town Highways * * *

Sec. 30. STATE FACILITIES SERVED BY TOWN HIGHWAYS

(a) The General Assembly finds that access to state parks and other state facilities is critical for the State and its economy. For state parks and state facilities that are primarily accessible by class 3 and 4 town highways, no state funding source other than general town highway aid exists to assist municipalities with the maintenance and rehabilitation of these highways.

(b) A Study Committee is established consisting of:

(1) the Secretary of Transportation or designee, who shall chair the committee;

(2) the Commissioner of Forests, Parks and Recreation or designee;

(3) the Commissioner of Buildings and General Services or designee;

(4) a member designated by the Vermont League of Cities and Towns.

(c) The Study Committee shall examine the condition of class 3 and 4 town highways that serve as primary access roads to state parks and other state facilities used by the public, alternative mechanisms for the State to assist municipalities with the maintenance or rehabilitation of such town highways, the appropriate municipal share for projects to maintain or rehabilitate such highways and whether a cap on any state assistance is appropriate, and the potential fiscal impact to the State of the alternative mechanisms reviewed by the Committee. The Committee shall formulate recommendations for consideration by the General Assembly as to whether and how the State should assist municipalities in maintaining and rehabilitating the town highways described in this subsection.

(d) On or before December 15, 2013, the Study Committee shall submit a written report of its findings and recommendations to the House and Senate Committees on Transportation.

Sec. 30a. SCHOOL BUS PILOT PROGRAM

(a) Definitions. As used in this section, the term "person" shall have the same meaning as in 1 V.S.A. § 128, and the term "Type II school bus" shall have the same meaning as in 23 V.S.A. § 4(34)(C).

(b) Pilot program. Upon application, the Commissioner of Motor Vehicles

shall approve up to three persons who satisfy the requirements of this section to participate in a pilot program. Pilot program participants shall be authorized to operate on Vermont highways Type II school buses registered in this State that are retrofitted with an auxiliary fuel tank to enable the use of biodiesel, waste vegetable oil, or straight vegetable oil, provided the school bus has passed inspection in accordance with subdivision (c)(3) of this section and the bus and its auxiliary tank comply with the Federal Motor Vehicle Safety Standards applicable to Type II school buses. If more than three persons apply to participate in the pilot program, the Commissioner shall give priority to applicants who seek to install the auxiliary fuel tank in connection with a student-led or student-generated school project.

(c) Documentation; requirements. The Commissioner may prescribe that applicants furnish information necessary to implement the pilot program. After an applicant furnishes such information and is approved, the Commissioner shall provide the person with documentation of the person's selection under the pilot program and the expiration date of the program. If the approved person is a municipality or another legal entity, the Commissioner's documentation shall list the specific individuals authorized to operate the Type II school bus. The Commissioner's documentation shall:

(1) be carried in the school bus while it is operated on a highway;

(2) constitute and be recognized by enforcement officers in Vermont as a waiver, until expiration of the pilot program, of those provisions of 23 V.S.A. §§ 4(37), 1221, and 1283(a)(6) and of any rule that would prohibit school buses retrofitted with auxiliary fuel tanks from lawfully operating on Vermont highways; and

(3) be recognized by authorized inspection stations as a waiver of the prohibition on auxiliary or added fuel tanks, and of the requirement that buses only be equipped with such motor fuel tanks as are regularly installed by the manufacturer, specified in the School Bus Periodic Inspection Manual ("Inspection Manual"); provided, however, that no school bus equipped with an auxiliary or added fuel tank shall pass inspection unless all other requirements of the Inspection Manual regarding fuel systems are satisfied.

(d) Expiration. The pilot program established and the waivers granted under this section shall expire on September 1, 2015.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section, Sec. 8a (Amtrak Vermont services), Sec. 10 (authority to issue transportation infrastructure bonds), Sec. 15a (addition to state highway

system), and Sec. 30a (school bus pilot program) of this act shall take effect on passage.

(b) Secs. 23–26 of this act shall take effect on May 1, 2013.

(c) Sec. 22 (taxation of diesel at $0.29 per gallon) of this act shall take effect on July 1, 2014.

(d) All other sections of this act shall take effect on July 1, 2013.

(No House Amendments)